

Gilbert Plains Municipality

BY-LAW NO. 2021-06

BEING A BY-LAW OF THE GILBERT PLAINS MUNICIPALITY to provide for general enforcement by the Municipality of its by-laws, provisions of *The Municipal Act*, *The Planning Act*, and any other Act the Gilbert Plains Municipality is authorized to enforce, and any permits, authorizations or agreements issued by or entered into by the Municipality under the authority of such Act, by-laws or provision.

WHEREAS clause 231(a) *The Municipal Act* of Manitoba C.C.S.M. c. M225, and amendments thereto (the "*Municipal Act*") provides council of a municipality with the power to pass by-laws that 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 the *Municipal Act* and other Acts as to enhance the ability of the council to respond to present and future issues in the municipality;

AND WHEREAS subsection 85(1) of the *Municipal Act* authorizes a council to, by way of by-law, delegate any of its powers, duties or functions under a by-law, the *Municipal Act* or any other Act, to a designated officer, unless the by-law or the *Municipal Act* or another Act otherwise provides;

AND WHEREAS section 130 of the *Municipal Act* authorizes the establishment, by way of by-law, of a position to carry out the powers, duties and functions of a Designated Officer under a by-law, the *Municipal Act* or any other Act and allows for the municipality to title such position as it considers appropriate;

AND WHEREAS clause 232(1)(o) and subsection 236(1) of the *Municipal Act* authorize a council to pass by-laws for municipal purposes respecting the enforcement of by-laws, which by-laws may include provisions for inspections and the remedying of by-law contraventions;

AND WHEREAS section 239 of the *Municipal Act* and section 175 of *The Planning Act* of Manitoba C.C.S.M. c P80, and amendments thereto (the "*Planning Act*") authorize a Designated Officer to, in accordance with the *Municipal Act*, enter onto land, or into buildings or other structures if the *Municipal Act*, the *Planning Act* or any other Act or a by-law authorizes or requires anything to be inspected, remedied, enforced or done by a municipality and the designated officer may carry out any such inspection, remedy, enforcement or action as required;

AND WHEREAS sections 242 and 245 of the *Municipal Act* and subsections 178(1) and (2) of the *Planning Act* provide for making orders to remedy, and the remedying of, or to prevent the reoccurrence of, a contravention of a by-law, the *Municipal Act*, the *Planning Act* or any other Act that a municipality is authorized to enforce;

AND WHEREAS the Municipality is a member of a Planning District the board of a planning district may pursuant to Section 15(1) of the *Planning Act* enter into any agreement necessary to enable it to carry out and exercise its duties and powers under this the *Planning Act* set out in section 14 and the Planning District may by agreement delegate to the Municipality the authority to enforce the those matters in their own municipality;

AND WHEREAS sections 243 and 246 of the *Municipal Act* provide for making orders to remedy, and the remedying of, dangers to public safety and property in an unsightly condition;

AND WHEREAS section 244 of the *Municipal Act* and subsection 178(3) of the *Planning Act* provide the means by which an order made under sections 242 and 243 of the *Municipal Act* and subsection 178(1) of the *Planning Act* can be reviewed by council for a municipality;

AND WHEREAS sections 245 and 246 of the *Municipal Act* and subsection 179(1) of the *Planning Act* provide that where a contravention under the *Municipal Act*, the *Planning Act* or other Act the municipality is authorized to enforce is not remedied, the municipality may take any action or measure that is reasonable to remedy the contravention;

AND WHEREAS subsections 245(3) and 246(3) of the *Municipal Act* and subsection 179(2) of the *Planning Act* provide that the Costs of an action or measure taken by a municipality under section 245 of the *Municipal Act* or clause 179(1)(a) of the *Planning Act* are a debt owing to the municipality by the person who contravened the by-laws;

AND WHEREAS section 232(1)(o), 236(1) and 249 of the *Municipal Act* and sections 181 and 182 of the *Planning Act* provide for the creation of an offence and the penalty provisions for an offence, including fines and imprisonment;

NOW THEREFORE, THE COUNCIL OF THE GILBERT PLAINS MUNICIPALITY ENACTS AS FOLLOWS:

PART I PURPOSE, DEFINITIONS, APPOINTMENTS

Purpose

1. This by-law provides for the enforcement of the Municipality's by-laws, the *Municipal Act*, the *Planning Act*, and any other Act the Municipality is authorized to enforce, as well as any permits, approvals, orders and agreements made or issued by the Municipality under authority of such by-laws, provisions and the *Municipal Act*, the *Planning Act* and any other Act the Municipality is authorized to enforce.

Definitions

2. In this By-law:
 - a) **"building"** means and includes a structure used or occupied or intended for supporting or sheltering or any use for occupancy;
 - b) **"by-law or by-laws"** means the by-laws of the Municipality;
 - c) **"costs"** shall include all costs related to the enforcement of the contravention or non-compliance and shall include all legal fees related to the Costs of the enforcement.
 - d) **"Council"** means the duly elected council of the Municipality;
 - e) **"emergency"** means a present or imminent situation or condition that requires prompt action to prevent or limit:
 - (i) loss of life;
 - (ii) harm or damage to the safety health or welfare of people or animals; or
 - (iii) damage to property or the environment.
 - f) **"occupant"** means any person in actual or constructive possession of property under a lease, tenancy license or other right to occupy;
 - g) **"owner"** means a person with any right, title, estate or interest in land or improvements, including a person shown as owner on the most current assessment records of the Municipality;
 - h) **"property"** means real and/or personal property;
 - i) **"Municipality"** means the Gilbert Plains Municipality; and
 - j) **"structure"** means a well, pipe, line, conduit, cut, excavation, fill, transmission line and any structure or erection (meaning anything that is erected, built or constructed of parts joined together or any such erection fixed to or soil structure construction and or supported by the soil or by any other structure), and any part of any of those things, and also includes an addition to or extension of any building or any of those things and a chattel that is attached to, or installed in or on, any building or any of those things.

Appointment and Powers of Designated Officer (By-Law Enforcement Officer)

3. Under section 130 of the Municipal Act, Council establishes the position of Designated Officer and shall, by resolution, appoint persons to act as Designated Officers.
4. All Designated Officers appointed by Council to act under this by-law and/or any other by-law, Act or Agreement the Municipality is entitled to enforce shall be referred to as "By-Law Enforcement Officers".
5. (1) Persons appointed by Council as By-law Enforcement Officers are authorized to:
 - i. enforce the provisions of the by-laws, the Municipal Act, the Planning Act, and any other Act the Municipality is authorized to enforce;

- ii. enforce permits, approvals, orders and agreements made or issued under the by-laws, the Municipal Act, the Planning Act or any other Act the Municipality is authorized to enforce;
- iii. carry out inspections;
- iv. make orders for the remedying of contraventions, including making orders requiring persons responsible for the contravention of a by-law, the Municipal Act, the Planning Act, or any other Act the Municipality is authorized to enforce, and for the purpose of making orders with respect to dangers to public safety or property that is in an unsightly condition;
- v. enforce contraventions through orders and notices;
- vi. apply for/obtain warrants; and
- vii. take remedial action as required in accordance with this by-law, the Municipal Act the Planning Act, or any other Act the Municipality is authorized to enforce.

(2) The By-law Enforcement Officer shall in consultation and with the approval of the Chief Administrative Officer be authorized to make any necessary expenditure on behalf of the Municipality and carry out the actions or measures stipulated in an Order to Comply or any variation or substitution thereof imposed following a review process without requiring the prior approval of Council.

PART II ENFORCEMENT

Inspections

6.

- (1) The By-law Enforcement Officer may, after giving reasonable notice to the owner or occupant of land, building or structure, enter the land, building or structure at any reasonable time and carry out an inspection, enforcement or action authorized by by-law or an Act, or request that anything be produced to assist in the inspection, remedy, enforcement or action authorized, and may make copies of anything related to the inspection, remedy, enforcement or action.
- (2) The By-law Enforcement Officer shall display or produce upon request identification showing that the By-law Enforcement Officer is authorized to make the entry.
- (3) The By-law Enforcement Officer may take written notes of any violations that may exist, and may take photographic evidence, which will be kept on file.
- (4) In an emergency, or in extraordinary circumstances, the By-law Enforcement Officer need not give reasonable notice or enter at a reasonable hour and may do all things referred to in subsection (1) without the consent of the owner or occupant.

7.

- (1) The By-law Enforcement Officer may conduct any further inspections necessary to determine whether the actions or measures set out in a Notice of Violation or an Order to Comply have been taken to remedy the contravention or situation, or to prevent a reoccurrence of the contravention.
- (2) It shall be the By-law Enforcement Officer's opinion and discretion whether a Notice of Violation or Order to Comply have been complied with.

Dangers and Unsightly Property

- 8. If, in the opinion of the By-law Enforcement 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 By-law Enforcement 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 in the Order;
or
 - (ii) remove or demolish the structure and level the site;
- (b) in case of land that contains the excavation or hole, require the owner:
 - (i) to eliminate the danger to public safety in the manner specified in the Order;
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 in the Order; or
 - (ii) if the property is a building or structure, remove or demolish the building or structure and level the site.

9.

- (1) Pursuant to Council's authority under clause 232(1)(a), to pass by-laws for the safety, health, protection and well-being of people and the safety and protection of property, and pursuant to Council's authority under clause 232(1)(c) to pass by-laws respecting activities on private property, owners and occupants of property shall keep and maintain their property in a safe and clean condition, which includes refraining from conducting activities on the property that may cause impairment of or damage to the environment, including negative effects on human, health, safety or property.
- (2) If, in the opinion of the By-law Enforcement Officer, an activity is being carried on a property, which activity may cause impairment or damage to the environment, including negative effects on human health, safety or property, the By-law Enforcement Officer by written Order:
 - (a) require the owner of the property to eliminate the danger to the public safety in the manner specified in the Order;
 - (b) require the property to be cleaned, including the removal of soil; and
 - (c) require the owner to keep and maintain the property in a safe and clean condition.

Notices of Violation

- 10. If the By-law Enforcement Officer determines that a violation or contravention of a by-law, the Municipal Act, the Planning Act or any other Act the Municipality is authorized to enforce, exists or has occurred, the By-law Enforcement Officer may issue a Notice of Violation respecting the contravention, in a form attached as Schedule A to this by-law, and deliver a copy of the Notice to the owner and/or occupant of the property, which notice shall contain:
 - (a) the name(s) of the owner and/or occupant of the property;
 - (b) the civic and legal description of the property;
 - (c) a description of the contravention of the of the by-law or Act and which section of the by-law or Act has been contravened;
 - (d) the particulars of the contravention/non-compliance and any remedial work or actions required to be undertaken to achieve compliance;
 - (e) the timeframe in which the non-compliance must be remedied which will not be less than 14 days; and
 - (f) a warning that if the owner or occupant does not remedy the contravention, the Municipality may issue an Order to Comply requiring the owner/occupant

to remedy the contravention, and failure to comply with such Order may result in:

- (i) the owner/occupant being charged with an offence and subject to a fine, a penalty and/or imprisonment; and/or
- (ii) the Municipality undertaking the work necessary to comply with the Order and the cost of such action (including legal costs incurred by the Municipality) will be a debt owing to the Municipality.

Orders to Comply

11. (1) If the By-law Enforcement Officer:

- (a) determines that a person has not complied with a Notice of Violation issued pursuant to section 10; or
- (b) finds that a contravention of a by-law a person is contravening a by-law, the *Municipal Act*, the *Planning Act* or any other Act the Municipality is authorized to enforce, exists or has occurred;

then the By-law Enforcement Officer may issue an Order to Comply, in a form attached as Schedule B to this by-law, and shall serve a copy of the Order to the owner and/or the occupant of the property subject of the contravention, which Order shall contain:

- (i) the name(s) of the owner and/or occupant of the property;
- (ii) the civic and legal description of the property;
- (iii) a description of the contravention of the of the by-law or Act and which section of the by-law or Act has been contravened;
- (iv) the particulars of the contravention/non-compliance;
- (v) direction to the owner or occupant to stop doing something, or change the way in which the owner or occupant is doing it;
- (vi) direction to the owner or occupant to take any action or measure necessary to remedy the contravention including the removal or demolition of a structure that has been erected or placed in contravention of the by-law and, if necessary, to prevent a reoccurrence of the contravention;
- (vii) the timeframe in which the non-compliance must be remedied which will not be less than 14 days from the date the Order is served;
- (viii) information how the owner/occupant may request Council to review the Order;
- (ix) a notice that if the owner/occupant fails to comply with the Order within the specified time:
 - i) the owner/occupant may be charged with an offence and subject to a fine, a penalty and/or imprisonment; and/or
 - ii) the Municipality may take the action or measures to comply with the Order at the expense of the owner/occupant (including legal costs incurred by the Municipality).

(2) When an Order is issued under subsection (1), the owner/occupant will be provided with a copy of the penalty provision of this by-law and any other information or direction as the Municipality deems appropriate, including reference to any surcharges or penalties (including legal costs incurred by the Municipality) that may apply.

Service of Notices and Orders

- 12. Notices of Violation may be served by personal service, posting on the property, or by regular mail.
- 13. Orders to Comply shall be served by personal service, posting on the property or by sending a copy of it by registered or certified mail or by other type of mail, delivery or

facsimile transmission or other type of communication facility for which confirmation of the notice having been sent may be obtained.

14.

- (1) Service on an occupant shall be made to the mailing address of the property subject of the Notice/Order.
- (2) Service on an owner shall be made to the mailing address for the owner of the property as shown on the current assessment records of the Municipality.

Appeal/Review of Order Question

15.

- (1) A person who receives an Order to Comply may (the "Appellant"), within 14 days of being served with the Order, appeal the Order by requesting Council to review the Order, by providing the Chief Administrative Officer with a Notice of Objection, in the form attached as Schedule C to this by-law.
- (2) The Notice of Objection in subsection (1) shall:
 - (a) provide the name and address of the Appellant; and
 - (b) be dated and signed by the Appellant.
- (3) Upon receiving a Notice of Objection, the Chief Administrative Officer of the Municipality shall, within 30 days of receipt of the Notice of Objection, set a date and time for the hearing of the appeal by Council and shall advise the Appellant of the date, time and place of the hearing.
- (4) The time specified for compliance in an Order is suspended from the date of receipt of a Notice of Objection by the Municipality until the date upon which Council makes its decision.
- (5) At the time and place set out in subsection (3), the Council shall consider the appeal and may hear from the Appellant in person or through counsel.
- (6) A hearing may be adjourned at the discretion of Council.
- (7) Upon hearing the appeal or within a reasonable period thereafter, the Council shall in writing, decide to:
 - (a) confirm the Order to Comply;
 - (b) provide additional time to comply with the Order to Comply;
 - (c) substitute the Order;
 - (d) vary the Order; or
 - (e) cancel the Order.
- (8) If the Appellant fails to appear at the hearing, the appeal shall be dismissed, the Order shall be automatically affirmed, and no further time will be provided to comply with the Order.
- (9) The decision of Council is final and is not subject to further appeal.

PART III REMEDIES BY MUNICIPALITY

Remedying Contraventions

16.

- (1) The Municipality may take whatever action or measures are necessary to remedy a contravention of a by-law, the Municipal Act, the Planning Act or any other Act that the Municipality is authorized to enforce or to prevent a re-occurrence of the contravention, if:

- (a) the By-law Enforcement Officer has issued a written Order to Comply in accordance with this by-law;
 - (b) the Order to Comply directs the owner or occupant to take any actions or measures necessary to remedy the contravention of the by-law or Act, including the removal or demolition of a structure that has been erected or placed in contravention of a by-law and, if necessary, preventing a reoccurrence of the contravention;
 - (c) the owner or occupant has not complied with the Order to Comply within the time specified in the Order; and
 - (d) the appeal period respecting the Order has passed or, if an appeal has been made, the appeal has been decided, and it allows the Municipality to take the action or measures.
- (2) If the Order to Comply directs that a premise be put and maintained in a sanitary condition, the Municipality may close the premises and use reasonable force to remove occupants.
- (3) If a structure is being removed or demolished by the Municipality pursuant to this by-law, a derelict building bylaw or an Act, the Municipality may use reasonable force to remove the occupants.

Remedy re: Dangers and Unsightly Property

17. The Municipality may take whatever action or measures are necessary to eliminate a danger to public safety caused by a structure, excavation or hole or to deal with the unsightly condition of a property if:
- (a) the By-law Enforcement Officer has given a written Order to Comply in accordance with this by-law;
 - (b) the Order to Comply contains a statement advising that if the owner or occupant does not comply with the Order within the specified time, the Municipality will take the action or measure at the expense of the owner or occupant;
 - (c) the person to whom the Order was directed has not complied with the Order within the time specified in the Order; and
 - (d) the appeal period respecting the Order has passed or, if an appeal has been made, the appeal has been decided, and it allows the Municipality to take the action or measures.

Emergencies

- 18.
- (1) In an emergency, the Municipality may take whatever actions or measures are necessary to eliminate the emergency.
 - (2) The Costs of any actions or measures taken to eliminate an emergency, including any remuneration referred to in subsection 247(4) of the *Municipal Act*, (including legal costs incurred by the Municipality) are an amount owing to the Municipality by the person who caused the emergency and may be collected by the Municipality in the same manner as a tax may be collected or enforced.

Costs of Remedying Contraventions

19. The Costs (including legal fees related to the enforcement) of an action or measure taken by the Municipality under this by-law are an amount owing to the Municipality by the Person who contravened the by-law, Municipal Act, the Planning Act, or any other Act the Municipality is authorized to enforce.

20. 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.

General Remedy

21.

- (1) The Municipality may seize, remove, impound, confiscate, and sell or otherwise dispose of plants, animals, vehicles, equipment or other things related to a contravention and enforcement of the by-law, the Municipal Act, the Planning Act, or any other Act the Municipality is authorized to enforce.
- (2) The Costs incurred by the Municipality associated with the actions in subsection (1) may be charged against the owner or occupant in contravention of the by-law or Act.

Sale of Property

22.

- (1) Any proceeds of sale recovered from a sale undertaken pursuant to this by-law, minus the Municipality's expenses related to the sale, shall be credited and offset against the Municipality's Costs to enforce the non-compliance.
- (2) To the extent that the proceeds of a sale, minus the Municipality's expenses related to the sale, exceed the Municipality's enforcement Costs, any surplus shall be paid:
 - (a) if the owner of the property sold can be determined, to the owner of that property;
 - (b) if after giving notice to the owner and/or if the owner of the property sold cannot be determined the proceeds shall be held by the Municipality in their general reserve account and after 7 years following the actual date of the enforcement the Municipality may transfer the funds to their general account.
 - (c) If another person other than the owner claims the surplus of the sale, the proceeds shall be paid into court and paid out as the court determines.
- (3) If there is any deficit remaining after the sale of property under this by-law, the balance remaining shall become an amount owing to the Municipality and may be collected in any manner in which a tax may be collected or enforced by the Municipality.

PART IV GENERAL

Offences

22. Any person who contravenes a provision of a by-law, the *Municipal Act*, the *Planning Act*, or any other Act the Municipality is authorized to enforce, is guilty of an offence and, if the by-law contravened imposes no other penalty, is liable on conviction to a fine of:
- (a) if under the Municipal Act, not more than \$500.00 or to imprisonment for a term of not more than three months, or both;
 - (b) if under the Planning Act, in the case of an individual, to a fine of not more than \$5,000.00, or imprisonment for a term of not more than six months, or both; and in the case of a corporation, to a fine of not more than \$20,000.
- 23.
- (1) Where the contravention of the by-law or Act continues for more than one day, the person is guilty of a separate offence for each day it continues.
 - (2) Where a corporation commits an offence under this by-law, each director or officer of the corporation who authorized, consented to, connived at or knowingly permitted or acquiesced in the doing of the act or omission that constitutes the

offence or offences, is guilty of the offence and is liable to the fine and/or penalty in this by-law.

Penalty

- 24. Any person who contravenes a provision of a by-law, the *Municipal Act*, the *Planning Act*, or any other Act the Municipality is authorized to enforce, is liable to pay of the charges and Costs (including legal fees related to the enforcement) related to enforcing the by-law.
- 25. The fines, penalties and Costs (including legal fees related to the enforcement) pursuant to this by-law shall be paid to the Municipality.

Validity of By-law

- 26. If any provision of this by-law is declared to be invalid by a court of competent jurisdiction, it is the intent of Council that it would have passed all other provisions of this by-law independent of the elimination of any such portion as declared invalid.

Transitional

- 27. The Municipality may establish a by-law enforcement under *The Municipal By-law Enforcement Act*, CCSM. c. M245, of Manitoba, as amended from time to time, and those matters governed by that Act shall be excluded from this by-law.

Repeal

- 28. Gilbert Plains Municipality by-law 2019-06 is repealed upon this by-law coming into effect.
- 29. Part Four, Items 9 and 10 of Gilbert Plains Municipality by-law 2020-09 are repealed upon this by-law coming into effect.

Coming Into Force

- 30. This by-law comes into force on the day following its third reading.

DONE AND PASSED by the Council of the Gilbert Plains Municipality, in Council duly assembled, at Gilbert Plains, Manitoba, this 25th day of May, 2021.

GILBERT PLAINS MUNICIPALITY

Blake Price, Reeve

Amber Fisher, Chief Administrative Officer

Read a First time this 9th day of March, 2021.

Read a Second time this 25th day of May, 2021.

Read a Third time this 25th day of May, 2021.

SCHEDULE A

NOTICE OF VIOLATION

THE GILBERT PLAINS MUNICIPALITY

NOTICE is hereby given by the Gilbert Plains Municipality to:

[insert name]

and to

[insert name]

(collectively referred to herein as the "Registered Owner")

real property legally described as: [insert legal description]

located in the Gilbert Plains Municipality ("the Property") that the Council of the Gilbert Plains Municipality has initiated proceedings to remedy contraventions of:

1. Section 242 of the *Municipal Act of Manitoba*, [insert contravention]
2. Section 243 of the *Municipal Act of Manitoba* [insert contravention]
3. Section 178 of the *Planning Act* of Manitoba, [insert contravention]

by ordering that the Registered Owner immediately:

Regarding Section 242 of the *Municipal Act*

[insert remedy]

Regarding Section 243 of the *Municipal Act*

[insert remedy]

Regarding Section 178 of the *Planning Act*

[insert remedy]

AND FURTHER TAKE NOTICE that pursuant to Section 245(1) and (2) and Sections 246(1) and (2) of *The Municipal Act* of Manitoba, and Section 179(1) of *The Planning Act* of Manitoba, in the event of the failure of the Registered Owner of the Property to comply with the Order by the Council of the Gilbert Plains Municipality ("Council") appended to this Notice, within the _____ [insert number of days] (___) days from the date of service of the Order, it is the intention of Council to cause the Order to be carried out and to charge the costs (including legal costs) incurred to the Registered Owner pursuant to Sections 245(3) and 246(3) of *The Municipal Act* of Manitoba and Section 179(2) of *The Planning Act* of Manitoba, and if required, charge the costs against the Property for collection as if the costs are tax arrears.

MUNICIPAL ACT

Municipality remedying contraventions

245(1) A municipality may take whatever action or measures are necessary to remedy a contravention of a by-law or this or any other Act that the municipality is authorized to enforce or to prevent a re-occurrence of the contravention, if

- (a) the designated officer has given a written order under section 242;
- (b) the order contains a statement referred to in clause 242(2)(b);

(c) the person to whom the order is directed has not complied with the order within the time specified in the order; and

(d) the appeal period respecting the order has passed or, if an appeal has been made, the appeal has been decided, and it allows the municipality to take the action or measures.

Closure of premises

245(2) If the order under section 242 directs that premises be put and maintained in a sanitary condition, the municipality may, under this section, close the premises and use reasonable force to remove occupants.

Costs

245(3) The costs of an action or measure taken by a municipality under this section are an amount owing to the municipality by the person who contravened the Act or by-law.

Remedying dangers and unsightly property

246(1) A municipality may take whatever actions or measures it considers necessary to eliminate the danger to public safety caused by a structure, excavation or hole or to deal with the unsightly condition of property if

(a) the municipality has given a written order under section 243;

(b) the order contains a statement referred to in clause 243(2)(b);

(c) the person to whom the order is directed has not complied with the order within the time specified in the order; and

(d) the appeal period respecting the order has passed or, if an appeal has been made, the appeal has been decided and it allows the municipality to take the action or measures.

Removal of occupants

246(2) If a structure is being removed or demolished by a municipality under this section, the municipality may use reasonable force to remove occupants.

Costs

246(3) The costs of an action or measure taken by a municipality under this section are an amount owing to the municipality by the person who was required to do something by the order under section 243.

PLANNING ACT

District or municipality remedying contraventions

179(1) A planning district or municipality may take any action or measure that is reasonable to remedy the contravention if

(a) the designated employee or officer has given a written order under section 178;

(b) the order contains the statements referred to in clauses 178(2)(b) and (d);

(c) the person to whom the order was directed has not complied with the order within the time period specified in the order; and

(d) the deadline for requesting a review under subsection 178(3) has passed or, if a review of the order has been requested, and the decision of the board or council was to allow the district or the municipality to take the action or measure.

Costs

179(2) The costs of an action or measure taken by a planning district or municipality under this section are a debt owing to the district or municipality by the person who contravened the by-law.

SHOULD THE REGISTERED OWNER WISH TO dispute the justification of the Gilbert Plains Municipality to act or contest the intention of the Gilbert Plains Municipality to charge the cost of enforcement (including legal fees) action against the Property for collection as tax arrears, the Registered Owner shall provide written notice to the Chief Administrative Officer on behalf of Council, within 14 days from the date of service of the Order upon you, or such longer period as a by-law specifies, of your request for the Council to review the Order.

AND TAKE NOTICE THAT in the event the Registered Owner does not appear at the time and place appointed by the Chief Administrative Officer on behalf of Council, for the review of the Order, Council shall be entitled to proceed with the enforcement of the Order immediately following the expiry of the allocated period of time stipulated.

Dated at Gilbert Plains, in the Province of Manitoba, this day of , 20____.

Designated Officer

SCHEDULE B
ORDER TO REMEDY CONTRAVENTION PURSUANT TO
SECTIONS 242(1) AND 243(1)
OF THE MUNICIPAL ACT OF MANITOBA
AND
SECTION 178(1)
OF THE PLANNING ACT OF MANITOBA

BY THE COUNCIL OF THE
GILBERT PLAINS MUNICIPALITY

WHEREAS, pursuant to Sections 242(1) and 243(1) of *The Municipal Act* of Manitoba, and Section 178(1) of *The Planning Act* of Manitoba, **[insert applicable section or sections]** it is the opinion of the Designated Officer of the Gilbert Plains Municipality, that [insert all the names of the parties including corporate or individual names as are appropriate] being the registered owner, and **[add additional parties claim any other interest Tenant or a beneficial owner]** (collectively referred to herein as the “Registered Owner”) of the property legally described as:

[insert legal and municipal address if applicable]

in the Gilbert Plains Municipality (the “Property”) is in contravention of:

1. Section 242 of the *Municipal Act*, as it relates **[put in the particulars of the noncompliance]** Your property fails to comply because **[state what needs to be done to bring the property into compliance]**
2. Section 243 of the *Municipal Act* of Manitoba **[put in the particulars of the noncompliance]** Your property fails to comply because
3. Section 178 of the *Planning Act* of Manitoba, **[put in the particulars of the noncompliance]** Your property fails to comply because

MUNICIPAL ACT

Order to remedy contravention

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.

Order to remedy dangers and unsightly property

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.

PLANNING ACT

Order to remedy contravention

178(1) If the designated employee or officer finds that a person is contravening

(a) a by-law adopted under this Act that the planning district or municipality is authorized to enforce; or

(b) the terms or conditions of a permit, approval or order made or issued under authority of this Act;

the designated employee or officer may issue a written order requiring the person to remedy the contravention.

AND WHEREAS, in the opinion of the Designated Officer, the particulars of such contravention are:

Regarding Section 242 of the *Municipal Act*

1. [state the particulars of what needs to be complied with each as to a separate matter]
2. [state the particulars of what needs to be complied with each as to a separate matter]
3. [state the particulars of what needs to be complied with each as to a separate matter]

Regarding Section 243 of the *Municipal Act*

4. [state the particulars of what needs to be complied with each as to a separate matter]

Regarding Section 178 of the *Planning Act*

5. [state the particulars of what needs to be complied with each as to a separate matter]

THEREFORE, pursuant to Sections 242(1), 242(2), 243(1) and 243(2) of *The Municipal Act* of Manitoba, and Sections 178(1) and 178(2) of *The Planning Act* of Manitoba, the Gilbert Plains Municipality **DOES HEREBY ORDER THAT** the Registered Owner, **SHALL WITHIN** _____ (____) [insert dates] **DAYS OF SERVICE** of the within Order upon the Registered Owner:

Regarding Section 242 of the *Municipal Act*

6. [state the particulars of what needs to be complied with each as to a separate matter and what needs to be completed to bring it into compliance.]

Regarding Section 243 of the *Municipal Act*

7. [state the particulars of what needs to be complied with each as to a separate matter and what needs to be completed to bring it into compliance.]

Regarding Section 178 of the *Planning Act*

8. [state the particulars of what needs to be complied with each as to a separate matter and what needs to be completed to bring it into compliance.]

MUNICIPAL ACT

Content of order

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.

Further content of order

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.

PLANNING ACT

Content of order

178(2) The order may

(a) direct the person to stop doing something, or to change the way in which the person is doing it;

(b) direct the person to take any action or measure necessary to remedy the contravention and, if necessary, to prevent a recurrence of the contravention;

(c) state a time within which the person must comply with the order; and

(d) state that if the person does not comply with the order within the specified time, the district or municipality may take any action required to remedy the contravention, at the expense of the person.

IT IS FURTHER ORDERED, pursuant to Sections 242(2)(d) and 243(2)(b) of *The Municipal Act* of Manitoba, and Section 178(2)(d) of *The Planning Act* of Manitoba, that in the event the Registered Owner does not comply with the provisions of this Order, within the time specified herein, the Designated Officer of the Gilbert Plains Municipality is hereby directed, empowered, authorized and instructed to carry out, or cause to be carried out, the terms of this Order at the sole cost and expense (including legal costs) of the Registered Owner.

MUNICIPAL ACT

242(2) The order may

...

(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(2) The order may

... (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.

PLANNING ACT

178(2) The order may

...

(d) state that if the person does not comply with the order within the specified time, the district or municipality may take any action required to remedy the contravention, at the expense of the person.

If you wish to appeal this Order you may, pursuant to Section 244(1) of *The Municipal Act* of Manitoba, and Section 178(3) of *The Planning Act* of Manitoba, provide written notice to the Chief Administrative Officer of the Gilbert Plains Municipality within 14 days from the date of service of the Order upon you, or such longer period as a by-law specifies, of your request for Council of the Gilbert Plains Municipality to review this Order.

The Gilbert Plains Municipality may charge the cost of the enforcement action (including legal fees) against the person and such costs may be applied to the Property for collection as tax arrears.

MUNICIPAL ACT

Review by council

244(1) A person who receives a written order under section 242 or 243 may request the council to review the order by written notice within 14 days after the date the order is received, or such longer period as a by-law specifies.

PLANNING ACT

Review by board or council

178(3) A person against whom an order is made under this section may require the board or council to review it by making a written request to the board or council no later than 14 days after the order was made.

Pursuant to Section 244(2) of *The Municipal Act* of Manitoba, and Section 178(4) of *The Planning Act* of Manitoba, Council of the Gilbert Plains Municipality may confirm, vary, substitute or cancel this Order.

MUNICIPAL ACT

Powers of council

244(2) After reviewing the order, the council may confirm, vary, substitute or cancel the order.

PLANNING ACT

Powers of board or council

178(4) After receiving the written request to review the order, the board or council must review the order and may confirm, vary, or rescind the order.

Dated at Gilbert Plains, in the Province of Manitoba, this _____ day of _____, 20____.

Designated Officer

SCHEDULE C

NOTICE OF OBJECTION (APPEAL)

Per Gilbert Plains Municipality Enforcement By-Law No. 2021-06

IN THE MATTER OF Enforcement By-Law No. 2021-06 of the Gilbert Plains Municipality.

To: GILBERT PLAINS MUNICIPALITY

PLEASE TAKE NOTICE that the undersigned Appellant hereby appeals to the Council of the Gilbert Plains Municipality regarding the Order to:

made by _____ on _____ day of _____, 20____,

respecting the Premises known as _____

Dated at the Gilbert Plains, in the Province of Manitoba, this _____ day of _____, 20____

(Name of Appellant - Please Print)

(Signature of Appellant)

(Address)