

FORM 4
NOTICE TO COMPLY – DANGEROUS OR
UNSAFELY PREMISES
(Local Governance Act, S.N.B., 2017, c.18, s 132(2))

FORMULE 4
AVIS DE CONFORMITÉ – LIEUX
DANGEREUX
OU INESTHÉTIQUES
(Loi sur la gouvernance locale,
L.N.-B. 2017, ch. 18, par. 132(2))

Parcel identifier:

PID #376459

Address: 78-80 Victoria Street, Saint John,
New Brunswick

Owner(s) or Occupier(s):

Name: Green, Ronald Joseph

Address: 2-17 Main Street, Saint John, New
Brunswick E2K 1G9

Local government giving notice: The City of Saint
John

By-law contravened: *Saint John Unsightly Premises
and Dangerous Buildings and Structures By-Law*, By-
law Number M-30 and amendments thereto (the “By-
law”).

Provision(s) contravened: Subsections 6(1), 6(2) and
6(3) of the By-law.

Conditions(s) that exist: The premise is unsightly by
permitting junk, rubbish, refuse and a dilapidated
building to remain on the premise. The building has
become a hazard to the safety of the public by reason of
being vacant or unoccupied and has become a hazard to
the safety of the public by reason of dilapidation and by
reason of unsoundness of structural strength. The
conditions of the building and premise are described in
Schedule “A”, a true copy of the inspection report dated
February 19, 2019 prepared by Catherine Lowe, EIT &
Rachel Van Wart, EIT, By-law Enforcement Officer,
reviewed and concurred in by Amy Poffenroth, P. Eng.,
By-law Enforcement Officer.

What must be done to correct the condition: The
owner is to remedy the conditions by complying with
the required remedial actions of the aforementioned
inspection report and bring the building and premises
into compliance with the aforesaid By-law.

In the event that the owner does not remedy the
condition of the building and premises in the time
prescribed by this Notice to Comply, the building may
be demolished as the corrective action to address the
hazard to the safety of the public and the premises may
be cleaned up.

In the event of demolition, all debris and items on the
premises will be disposed of as the corrective action to
address the hazard to the safety of the public.

The aforementioned remedial actions relating to the
demolition of the building and the disposal of debris and

Numéro d’identification de la parcelle :

NID : 376459

Adresse : 78-80, rue Victoria, Saint John,
Nouveau-Brunswick

Propriétaire(s) ou occupant(s) :

Nom : Green, Ronald Joseph

Adresse : 2-17 Main Street, Saint John,
Nouveau-Brunswick, E2K 1G9

Gouvernement local signifiant l’avis : The City of
Saint John

Arrêté enfreint : *Arrêté relatif aux lieux inesthétiques
et aux bâtiments et constructions dangereux de Saint
John*, Arrêté numéro M-30, ainsi que ses
modifications ci-afférentes (l’ « Arrêté »).

Disposition(s) enfreinte(s) : Les paragraphes 6(1),
6(2) et paragraphe 6(3) de l’Arrêté.

Description de la (des) situation(s) : Les lieux sont
inesthétiques en permettant la présence de ferraille,
de débris et le bâtiment délabré. Le bâtiment
est devenu dangereuse pour la sécurité du public du
fait de son inhabitation ou de son inoccupation et est
devenu dangereuse pour la sécurité du public du fait
de son délabrement et du fait de manque de solidité.
Les conditions du bâtiment et des lieux sont décrites à
l’annexe « A », une copie conforme du rapport
d’inspection en date du 19 février 2019 et préparé par
Catherine Lowe, IS & Rachel Van Wart, IS, agentes
chargé de l’exécution des arrêtés municipaux, révisé
et en d’accorde avec par Amy Poffenroth, ing., une
agente chargé de l’exécution des arrêtés municipaux.

Ce qu’il y a lieu de faire pour y remédier: La
propriétaire doit restaurer les conditions en se
conformant aux recommandations du rapport
d’inspection susmentionné et d’amener le bâtiment et
les lieux en conformité avec l’Arrêté.

Dans l’éventualité que la propriétaire ne remédient pas
le bâtiment et les lieux dans le temps prescrit par le
présent avis de conformité, le bâtiment pourront être
démolis comme mesure corrective compte tenu qu’il
représente un danger pour la sécurité du public et les
lieux pourront être nettoyés.

Dans l’éventualité de démolition, tous les débris et
autres items sur les lieux seront disposés comme
mesure corrective dans le but de remédier le danger
pour la sécurité du public.

Les mesures correctives susmentionnées relativement
à la démolition du bâtiment et la disposition des débris

items on the premises do not include the carry-out clean-up, site rehabilitation, restoration of land, premises or personal property or other remedial action in order to control or reduce, eliminate the release, alter the manner of release or the release of any contaminant into or upon the environment or any part of the environment.

et autres items sur les lieux ne comprennent pas le nettoyage, la remise en état des lieux, des terrains ou des biens personnels ou toute autre mesure corrective dans le but de contrôler ou de réduire, d'éliminer le déversement, de modifier le mode de déversement ou le déversement d'un polluant dans ou sur l'environnement ou toute partie de l'environnement.

Date before which the condition must be corrected:¹

- a) The demolition of the building, clean-up of the property and related remedies must be complete, or plans and permit applications for repair related remedies, must be submitted: within 15 days of being served with the Notice to Comply.
- b) The repair related remedies must be complete within 60 days of being served with the Notice to Comply.

Délai imparti pour y remédier :¹

- a) La démolition du bâtiment et le nettoyage des lieux doivent être complétés, ou à laquelle les plans et demande de permis pour les mesures des réparations, doivent être soumises, dans les 15 jours qui suivent la signification de l'avis de conformité.
- b) Les réparations liées aux mesures doivent être complétées dans les 60 jours qui suivent la signification de l'avis de conformité.

Date for giving notice of appeal: Within 14 days of being served with the Notice to Comply.

Date limite pour donner l'avis d'appel: Dans les 14 jours qui suivent la notification de l'avis de conformité.

Process to appeal: The owner may within 14 days after having been served with this Notice to Comply, send a Notice of Appeal by registered mail to the Common Clerk of The City of Saint John, City Hall – 8th Floor, 15 Market Square, Saint John, New Brunswick, E2L 4L1.

Processus d'appel : La propriétaire peut dans les 14 jours qui suivent la notification de l'avis de conformité, envoyé un avis d'appel par courrier recommandé à la greffière communale de la municipalité, à The City of Saint John, Édifice de l'hôtel de ville, 8^e étage, 15 Market Square, Saint John, Nouveau-Brunswick, E2L 4L1.

Potential penalty for not complying with notice within time set out in notice:² Subsection 11(1) of the By-law states that a person who fails to comply with the terms of a Notice to Comply given under section 7 of the said By-law, commits an offence that is punishable under Part 2 of the *Provincial Offences Procedure Act* as a category F offence.

Peine possible en cas d'omission de se conformer aux exigences de l'avis dans le délai y imparti :² Le paragraphe 11(1) de l'Arrêté prévoit quiconque omet de se conformer aux exigences formulées dans un avis de conformité notifié aux termes de l'article 7 de ladite Arrêté, commet une infraction qui est punissable en vertu de la partie 2 de la *Loi sur la procédure applicable aux infractions provinciales* à titre d'infraction de la classe F.

Where an offence under subsection 11(1) continues for more than one day, the minimum fine that may be imposed is the minimum fine set by the *Provincial Offences Procedure Act* for a category F offence multiplied by the number of days during which the offence continues pursuant to subparagraph 11(3)(b)(i).

Lorsqu'une infraction prévue au paragraphe 11(1) se poursuit pendant plus d'une journée, l'amende minimale qui peut être imposée est l'amende minimale prévue par la *Loi sur la procédure applicable aux infractions provinciales* pour une infraction de la classe F multipliée par le nombre de jours pendant lesquels l'infraction se poursuit conformément à l'alinéa 11(3)b)i).

Local government’s authority to undertake repairs or remedy:³ Paragraphs 12(1)(a), 12(1)(b) and 12(1)(c) of the By-law state that if an owner or occupier does not comply with a Notice to Comply given under section 7 within the time set out in the said Notice, the City may, cause the premises of that owner or occupier to be cleaned up or repaired, or cause the building or other structure of that owner or occupier to be repaired or demolished. Further, subsection 12(3) of the By-law states that the cost of carrying out such work, including any associated charge or fee, is chargeable to the owner or occupier and becomes a debt due to the City.

Pouvoir du gouvernement local d’entreprendre des réparations ou de remédier à la situation :³ Conformément aux alinéas 12(1)a), 12(1)b) et 12(1)c) de l’Arrêté, si un avis de conformité a été signifié aux termes de l’article 7 de ladite Arrêté et, que le propriétaire ou l’occupant ne se conforme pas à cet avis de conformité dans le délai imparti et tel qu’il est réputé confirmé ou tel qu’il est confirmé ou modifié par un comité du conseil ou par un juge en vertu le paragraphe 12(3) de ladite Arrêté, la municipalité peut faire nettoyer ou réparer les lieux de ce propriétaire ou de cet occupant ou de faire réparer ou démolir le bâtiment ou autre construction de ce propriétaire ou de cet occupant, et les coûts afférents à l’exécution des ouvrages, y compris toute redevance ou tout droit connexe, sont mis à la charge du propriétaire ou de l’occupant et deviennent une créance de la municipalité.

Dated at Saint John the 19th day of February, 2019.

Fait à Saint John le ____ février, 2019.

Local government: The City of Saint John

Gouvernement locale : The City of Saint John

Signature of the officer of the local government:

Signature du fonctionnaire du gouvernement local:



Contact information of the officer of the local government:

Coordonnées du fonctionnaire du gouvernement local:

Name: Rachel Van Wart, EIT
Mailing address:

Nom : Rachel Van Wart, IS
Adresse postale:

Growth and Community Development Services

Service de la Croissance et du Développement Communautaire

The City of Saint John
15 Market Square
City Hall Building, 10th Floor
P. O. Box 1971
Saint John, New Brunswick
E2L 4L1

The City of Saint John
15 Market Square
Édifice de l’hôtel de ville, 10^e étage
Case postale 1971
Saint John (Nouveau-Brunswick)
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Telephone: (506) 658-2911
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Corporate seal of the local government



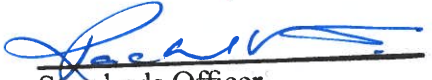
Sceau du gouvernement local

- Notes:**
1. All appropriate permits must be obtained and all relevant legislation must be complied with in the course of carrying out the required remedial action.
 2. Payment of the fine does not alleviate the obligation to comply with the by-law, standard or notice.
 3. Costs become a debt due to the local government and may be added to the joint local government and provincial Real Property Assessment and Tax Notice.

- Notes :**
1. Tous les permis prescrits doivent être obtenus et toute la législation pertinente doit être respectée pendant l’exécution des mesures de remédiation.
 2. Le paiement de l’amende n’a pas pour effet d’annuler l’obligation de se conformer à l’arrêté, à la norme ou à l’avis.
 3. Les coûts deviennent une créance du gouvernement local et peuvent être ajoutés à l’avis commun d’évaluation et d’impôt foncier des gouvernements local et provincial.

I hereby certify that this document is a true copy of the original.

INSPECTION REPORT
Schedule "A"
78-80 Victoria Street
Saint John, New Brunswick
PID# 376459

Dated at Saint John,
this 17th day of
February 2019.

Standards Officer

Inspection Dates: June 7, 2018 & February 11, 2019
Inspections Conducted by: Catherine Lowe, EIT & Rachel Van Wart, EIT

Introduction

Inspections of the property at 78-80 Victoria Street, PID# 376459, have revealed that there is one building on the premise (the "Building"); a three-storey, three unit apartment building. Staff first became aware of the property's vacancy in June 2010 and began standard enforcement procedures. The Building has sustained two fires, one on June 11, 2010 and one on September 9, 2010. The property is located in the City's North End in an urban centre residential zone. The Building is a hazard to the safety of the public by reason of being vacant, by reason of dilapidation and by reason of unsoundness of structural strength.

There is an open building permit (BP16-546) that has been granted an extension until June 20, 2019. The description of work for this permit includes foundation repairs to the existing building and a slab for a future detached garage.

As per the *City of Saint John Zoning By-law*, the shipping container at the rear of the property is in contravention of the Zoning by-law and is not permitted on the property as it is classified as 'a container designed for commercial transport' that is functioning as an accessory structure.

8.17 Vehicle Bodies

Except as otherwise provided by this By-law, a container designed for commercial transport, a farm tractor, a motor vehicle, a road building machine, a tractor engine, a tractor trailer, or any other vehicle drawn, propelled or driven by any kind of power regardless of whether such vehicle has been modified or no longer functions or resembles a vehicle, shall not be permitted in any zone as a main building or structure or as an accessory building or structure.

Discussion

The Building is not in compliance with the *Saint John Unsightly Premises and Dangerous Buildings and Structures By-law*, By-law Number M-30, and amendments thereto (the "By-law").

Unsightly Premise Conditions

Subsection 6(1) of the By-law states:

No person shall permit premises owned or occupied by him or her to be unsightly by permitting to remain on any part of such premises

- (a) any ashes, junk, rubbish or refuse;
- (b) an accumulation of wood shavings, paper, sawdust or other residue of production or construction;
- (c) a derelict vehicle, equipment, machinery or the body of any part of a vehicle equipment or machinery, or
- (d) a dilapidated building.

1. There is junk, rubbish, and refuse on the property. These items include, but are not limited to; a shopping cart and multiple piles of lumber. The aforementioned accumulation of junk, rubbish, and refuse is unsightly.

2. The Building is dilapidated. There is siding is missing from first floor of the front of the Building; the second and third floors of the front façade are covered in white vinyl siding. Pieces of plywood, lumber and other wood cover the foundation at the front of the Building. There are loose and broken stones at the right front corner of the Building, which may have previously been part of the foundation system. There is no siding on the rear exterior wall of the Building; old, loose, faded house wrap remains that blows in the wind. The paint is peeling from the wooden shingles on the right and left side of the Building. A section of the rear foundation is covered with plywood boards that are cracked in some locations. The entire Building structure is leaning significantly to the left. The aforementioned conditions are unsightly.

Vacant and Unoccupied

Subsection 6(2) of the By-law states:

No person shall permit a building or other structure owned or occupied by the person to become a hazard to the safety of the public by reason of being vacant or unoccupied.

The Building is a hazard to the safety of the public by reason of being vacant or unoccupied for the following reasons:

1. Buildings in dilapidated condition that are known to be vacant can attract vandalism, arson and criminal activity. The property condition affects the quality of life of neighboring properties and negatively impacts property value of real estate in the area due to negative perceptions of unsafe and deteriorating conditions. The City of Saint John Finance department confirmed that the water has been turned off since April 2010. Saint John Energy confirmed that the power has been turned off and the meter has been removed in Apartment #2 since 2007 and Apartment #3 since 2010.
2. There is a higher risk of a fire event occurring at the property since it is known to the public that the Building is vacant. Many vacant buildings in the North End area have recently been the target of arson. In 2010 this Building suffered two separate fires that both originated from the first storey of the Building. The Building is now a shell with wooden floors, walls, and ceiling members exposed. There is also an accumulation of plywood and lumber on the first storey. If a fire event were to occur in the Building it would quickly spread through the Building due to the lack of any material to impede the spread of the fire. The Building is in very close proximity to 82 Victoria Street. If a fire event were to occur within the Building it could potentially spread to the neighboring occupied building. This could cause significant damage to the building and endanger the lives of the occupants.
3. There is a concern for emergency personnel safety in the event of a fire or emergency. If firefighters suspect there may be people inside the Building, it would be reasonable to expect they may be required to enter the Building. The interior conditions of the Building are not known to firefighters which pose a hazard to their safety. The interior of the Building is entirely gutted. Many sections of the first storey are missing proper floor boards; instead plywood boards have been laid sporadically across the floor joists. This has left many holes and gaps that one could easily fall through to the foundation of the Building which could cause serious injury. On the second storey there are four metal cables anchored to the left and right walls that run the width of the Building. The cables are anchored approximately one foot in height above the floor. One cable is anchored at the top of the stairs on the left side of the Building so that it has to be stepped over from the top step. This creates a dangerous tripping hazard. These conditions are not known to emergency personnel and could pose a threat to their safety in an emergency situation.

Dilapidated Building Conditions

Subsection 6(3) of the By-law states

No person shall permit a building or other structure owned or occupied by the person to become a hazard to the safety of the public by reason of dilapidation or unsoundness of structural strength.

The Building is a hazard to the safety of the public by reason of dilapidation for the following reasons:

Exterior Conditions:

1. The exterior of the Building is dilapidated. The Building does not have a complete building envelop which can cause materials to rot and deteriorate. The rear exterior wall has no siding and is covered only by house wrap material. This condition has existed since 2012. Currently, this material is not tight to the Building as it should be, but is loose and flaps in the wind. On the front façade of the Building, house wrap is exposed around the front door and part of the ground floor wall. The lack of siding does not provide adequate protection of the structure. Rotten building materials can lead to damp and moldy conditions which could affect the health of any future tenants and can impact the structural integrity of the Building.
2. A front second storey window is broken. The Building directly abuts the sidewalk. If broken glass fell from this window a pedestrian on the sidewalk may be injured by the falling glass.
3. The foundation of the Building is not complete and is covered by plywood boards at the front and rear of the Building. The plywood boards do not provide full coverage of the foundation as there are many gaps between boards. This allows the elements to enter beneath the Building to the foundation. Sections of the foundation that are exposed at the front right and left side are cracked and appear deteriorated. A building permit was obtained to install a new foundation according to the specification outlined in a report by Fundy Engineering dated December 7, 2011. A permit was issued in 2011 but it expired and was closed in 2016 due to no work being completed. A second building permit was issued in 2016 again for the installation of the foundation. To date, no work has been completed and the foundation remains unfinished. An incomplete foundation can lead to deterioration of materials and structural instability. Also, the Building is leaning to the left and encroaching on the neighboring property at 82 Victoria Street. This condition is consistent with foundation issues.

Interior Conditions:

1. The interior of the Building is dilapidated. The Building has been stripped and is now a shell with only exposed wooden structural members and framing. The Building is missing the necessary habitable components such as flooring, drywall, and insulation. Many windows in the Building have been removed and covered with wooden panels. These conditions are a fire hazard. Buildings in the North End have recently been the target of arson. If a fire were to occur within the Building it would spread quickly as there is nothing to impede the spread of the fire. This is an extreme hazard to the safety of the public and emergency responders.
2. There is a lack of a complete building envelope, allowing the entry of animals, rodents and precipitation. The rear ell of the Building was demolished sometime between 2011 and 2012. The exterior wall was then wrapped with Tyvek house wrap and has remained in that condition to date. The house wrap has become loose and does not provide the rear wall with adequate protection from the elements. From inside the Building, the outside can be clearly seen

through sections of the rear wall that are no longer covered by the house wrap. There is also evidence of animals in the Building as feces was found on the third storey. In addition, a motion alarm system that notifies the Saint John Police Force of trespassing and criminal activity has been activated at least 10 times since 2015. Each time the alarm was activated, trespassers were not found. The motion detector alarms were likely activated by animals entering the Building. Animals such as raccoons can be aggressive, carry disease, and be a nuisance for neighbors.

3. The first storey of the Building does not have a proper floor. The floor joists of the Building are exposed, with sheets of plywood laid across the joists sporadically to allow passage through the first storey. Plywood must be laid according to the National Building Code of Canada in order to provide the required load bearing. As this has not been done on the first storey, the plywood could fail under load. Also, since the plywood does not properly cover the entire floor on the first storey, there are many holes and gaps in the floor between boards and floor joists. Falling through to the foundation of the Building would cause serious injury.
4. There are four metal cables anchored to the left and right walls of the Building on the second storey, each running the complete width of the interior of the Building. They are positioned approximately one foot above floor level, therefore needing to be stepped over carefully when walking through the second storey. One of the cables is anchored at the top of the staircase on the left side of the Building and must be stepped over from the top step. Anyone in the Building who is unfamiliar with its condition may not notice these metal cables. The cables are a serious tripping hazard.
5. The roof of the Building is dilapidated and leaking. Water damage can be seen on the floor boards in the same location on both the second and third storey floor. The water damaged area is larger on the third storey and likely becomes saturated during wet weather thus leaking water to the second storey. Water damaged material can become rotten if subjected to prolonged damp conditions. If this condition is not remedied the roof structure could become further deteriorated, eventually becoming structurally unsound.

Structurally Unsound Building Conditions

Subsection 6(3) of the By-law states

No person shall permit a building or other structure owned or occupied by the person to become a hazard to the safety of the public by reason of dilapidation or unsoundness of structural strength.

The Building is a hazard to the safety of the public by reason of unsoundness of structural strength for the following reasons:

1. The Building is structurally unsound and does not meet code standards. The Building is significantly leaning to the left, which is visible from the front view of the Building. In addition, framing members on the interior of the building show leaning to the left. The leaning of the structure is likely related to the foundation and soil conditions. According to a report by Fundy Engineering dated December 7, 2011, the foundation requires a number of repairs in order to meet National Building Code of Canada. Two separate building permits were issued by the City for repairs, yet neither permitted work has been completed. This has left the foundation exposed and subject to further deterioration. If this condition persists or the Building is subjected to a significant load (fire load, extreme weather conditions) the Building would be in danger of further structural failure and unsoundness.

2. There are four metal cables anchored to the left and right walls of the Building that run the width of the interior of the Building. The property owner has stated that these cables serve a structural support purpose. It is unclear if this condition does add any structural integrity. The cables are subject to tension forces. If a cable were to fail, the potential negative effect this would have on the structural integrity of the Building is unknown and could be severe. Also, if someone were on the second storey when a cable failed it could cause personal injury.

Required Remedial Actions

The owner must comply with one of the two options stated below:

Option 1: Remedy the conditions of the Building through all repair and remedial actions as follows:

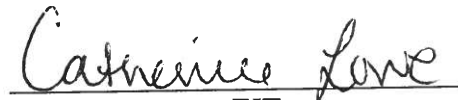
1. The Building must be must be completely repaired to remedy the above mentioned hazards to public safety while meeting the requirements of the *National Building Code of Canada (2010)* as well as all other applicable by-laws.
2. The Building must be maintained, kept secure, and monitored on a routine basis while the property remains vacant or unoccupied.
3. A detailed plan must be submitted to the Growth and Community Development Services Department of the City of Saint John (the “Department”) for review and approval. The plan should also include a schedule for the work that is to be carried out. The repaired Building must meet the *National Building Code of Canada (2010)* as well as other applicable codes.
4. The detailed plan, including schedules and any engineering reports, must be approved by the Department prior to commencing repair work.
5. A building permit must be obtained for any and all applicable work prior to commencing said work from the City of Saint John in order to comply with the *Saint John Building By-law*, By-law Number C.P. 102 and amendments thereto (the “*Saint John Building By-law*”).
6. The premise must be cleared of all debris found on the property, including any and all rubbish that may be considered hazardous or unsightly. The debris from the premise must be disposed of at an approved solid waste disposal site, in accordance with all applicable by-laws, acts and regulations. Documented proof, that clearly demonstrates an approved solid waste disposal site was used for the disposal of debris, must be provided to the Department. The premise must comply with all applicable By-laws, Acts, Codes and Regulations.

Option 2: Demolition of the Building and cleanup of all debris on the premise by complying with all the remedial actions as follows:

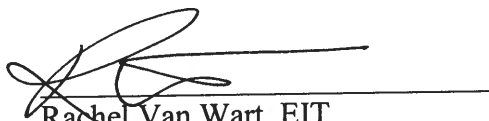
1. The Building must be demolished to remove the hazard to the safety of the public by reason of dilapidation and by reason of being vacant or unoccupied.
2. A demolition permit must be obtained from the City of Saint John in order to comply with the *Saint John Building By-law*.
3. The premise must be cleared of the debris from the demolition and the lot must be made reasonably level with grade so as to not create a tripping or falling hazard. All debris must be disposed of at an approved solid waste disposal site, and in accordance with all applicable By-laws, Acts and Regulations. Documented proof, that clearly demonstrates an approved solid waste disposal site was used for the disposal of debris, must be provided to the Department.

4. All debris that is currently on the premise must be removed and disposed of at an approved solid waste disposal site, and in accordance with all applicable By-laws, Acts and Regulations. Documented proof, that clearly demonstrates an approved solid waste disposal site was used for the disposal of debris, must be provided to the Department.
5. The property must be in compliance with all applicable By-laws, Acts and Regulations.

Prepared by:

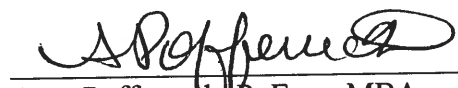

Catherine Lowe, EIT
Technical Services Officer
Growth and Community Development Services

Feb 19, 2019
Date


Rachel Van Wart, EIT
Technical Services Officer
Growth and Community Development Services

FEB 19 / 19
Date

Reviewed by and concurred in by:


Amy Poffenroth, P. Eng., MBA
Building Inspector
Deputy Commissioner
Growth and Community Development Services

February 19, 2019
Date