

CONSOLIDATED WITH BY-LAWS 4-2011, 29-2013, 32-2015 and 30-2018
CORPORATION OF THE TOWNSHIP OF MULMUR

BY-LAW NO. 07 – 06

(Property Maintenance Standards By-law)

BEING A BY-LAW for prescribing standards for the maintenance of property within the Municipality of the Township of Mulmur; for prohibiting the use of such property that does not conform to the standards; and for requiring property below the standards prescribed herein to be repaired and maintained to comply with the standards or the land thereof to be cleared of all buildings, structures, debris or refuse and left in a graded and leveled condition.

The Council of the Corporation of the Township of Mulmur, pursuant to Section 15.1 of The Building Code Act, S.O. 1992 c. 23, and amendments thereto, and the Municipal Act, R.S.O. 1990. c. M.45, s. 326 and amendments thereto

ENACTS AS FOLLOWS:

SECTION 1 - TITLE

1.01 This By-law may be cited as the "Property Maintenance Standards By-law".

SECTION 2 - DEFINITIONS

In this By-Law:

2.01 Accessory Building: means a detached building located on the same lot as the main building, the use of which is incidental or secondary to that of the main building and which is not used for human habitation, except in the case of a guest cabin.

2.02 Accessory Use: means a use of lands or buildings which is incidental and subordinate to the principal use of lands and buildings.

2.03 Basement: means that portion of a building between two floor levels which is partly underground, but which at least 0.5 metres of its height, from finished floor to finished ceiling, is above the adjacent finished grade.

2.04 Building: means any structure as defined by the Ontario Building Code Act, used or intended to be used for shelter, accommodation or enclosure of persons, animals or chattels other than a fence or wall.

2.05 Cellar: means the portion of a building between two floor levels which is partly or wholly underground and which has less than 0.5 metres of its height, from finished floor to finished ceiling, above adjacent finished grade.

2.06 Commercial Property: means any property that is used, has been used or is designed for use, either in whole or in part, as a commercial, industrial or home occupation establishment and includes any land, buildings, mobile buildings or structures, construction equipment or supplies, trucks, cars, vans or buses whether operable or not, and all steps, walks, driveways, parking spaces, fences or signs associated with the premises or its yards.

2.07 Committee: means the Property Standards Committee established under this By-Law.

2.08 Corporation: means the Corporation of the Municipality of the Township of Mulmur.

2.09 Dwelling: means a building or structure or part of a building or structure occupied or capable of being occupied in whole or in part for the purposes of human habitation and includes the land, all outbuildings, fences and structures appurtenant thereto.

2.10 Dwelling Unit: means one or more habitable rooms designed for use by and occupied by not more than one family in which sanitary facilities and only one separate kitchen are provided for the exclusive use of such a family, with dual entrances from outside the building or from a common hallway or stairway inside the building.

2.11 Maintenance: means the preservation and keeping in repair of a property.

2.12 Means of Egress: means a continuous path of travel provided by a doorway, hallway, corridor, exterior passageway, balcony, lobby, stair, ramp or other egress facility for the escape of persons from any point within a building, floor area, room or contained open space used as a dwelling unit to a public thoroughfare or approved open space.

2.13 Occupant: means any person(s) over the age of eighteen years in possession of the property.

2.14 Officer or Property Standards Officer: means a person who has been so appointed or designated by the Corporation.

2.15 Owner: includes the person for the time being managing or receiving the rent of/or paying the municipal taxes on the land or premises in connection with which the word is used whether on his own account or as agent or trustee of any other person or who would receive the rent if such land and premises were let, and shall also include a lessee or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance of property.

2.16 Property: means a building or structure or part of building or structure and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, travel trailers, vans, inoperable vehicles, equipment, outbuildings, accessory buildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property.

2.17 Repair: includes the provision of such facilities and the making or additions or alterations or the taking of such action as may be required so that the property shall conform to the standards established by this By-law.

2.18 Residential property: means any property that is used, has been used or is designed for use as a domestic establishment in which one or more persons usually sleep and prepare and serve meals, and includes any land, buildings, mobile homes, trailers, van or buses that are appurtenant to such establishment and all steps, walks, driveways, parking spaces and fences associated with the dwelling or its yards.

2.19 Rubbish means any waste material, refuse, broken matter, trash or litter.

2.20 Sewage: means any liquid waste containing animal, vegetable or mineral matter in suspension or solution but does not include roof drainage or other storm water runoff.

2.21 Sewage System: means a private sewage disposal system approved by the Ministry of the Environment and/or the County of Dufferin Building Department.

2.22 Standards: means the standards of physical condition prescribed for property by this By-Law.

2.23 Structure: means anything constructed, placed or erected other than a building, the use of which requires location on the ground, or attached to something having location on the ground, and for the purpose of this By-law, shall include a sign and a vehicle as defined in The Highway Traffic Act, whether or not the wheels have been removed or is operable.

2.24 Yard: means an open, uncovered and unoccupied space appurtenant to a building and, for the purpose of this by-law, it shall include the entire area of any lot in a built-up area, regardless of whether there is a building located thereon. 29-2013

2.26 References to the Building Code Act are to the Building Code Act, S.O. 1992, c. 23 as amended from time to time and to the regulations passed under it, as amended from time to time.

SECTION 3 - GENERAL PROVISIONS

3.01 Application of By-Law

This By-law applies to all lands within the Township of Mulmur.

3.02 General Obligations

- (a) No person shall use, permit the use of, rent or offer to rent any property that does not conform to the standards of this By-law.
- (b) Where a Property Standards Officer has placed or caused the placing of a placard containing the terms of a notice or order upon the premises under the authority of the Building Code Act, no one shall remove the said placard except with the consent of a Property Standards Officer.
- (c) The obligations created by this by-law on the owner or occupant shall be joint and several.

- (d) Where a notice or order has been issued by the Property Standards Officer pursuant to this By-law, the owner and occupant thereof shall:
- 1) repair and maintain the property in accordance with the standards or,
 - 2) remove or, demolish and remove, the whole or the offending part of the property that is not in accordance with the standards, or
 - 3) in the event that the property is to be cleared of all buildings, structures, debris or refuse, the owner or occupant shall complete such work and shall leave the property in a graded and leveled condition.

SECTION 4 - PROPERTY MAINTENANCE STANDARDS

4.01 Yards

(a) Yards shall be kept clean and free from rubbish and other debris and from objects or conditions that might create a health, fire or accident hazard to any occupants, or a hazard or detriment to the environment, or surface or ground water. Open, non-forested areas of all yards shall be graded so that a permanent grass cover can be established and maintained and a permanent grass cover shall be established and, subject to the following limitations, maintained to prevent erosion and sedimentation, control weeds and present an orderly and well-kept appearance.

On lots, all non-landscaped and non-forested open areas with grass cover shall be mowed and maintained in the following circumstances:

- i) All areas of a lot that is within the boundaries of a settlement area as defined in the Township's Official Plan that is zoned "Hamlet Residential", "Highway Commercial" "General Commercial" "Business Park Gateway", "Institutional", "Estate Residential" or "Rural Residential" and all properties with an exception zoning in any of those zones in the Township's Zoning By-law or within an area designated "Estate Residential" in the Township's Official Plan and zoned "Estate Residential" or Estate Residential Chalet" and all properties with an exception zoning in any of those zones in the Township's Zoning By-law;
 - ii) For lots of less than 2.0 ha. (5 acres) located outside of built-up areas and estate residential areas, and any lot of less than 4.0 ha. (10 acres) within the Niagara Escarpment Plan Area, the front yard and exterior side yard, as well as any interior side yard adjacent to any other lot of less than 2.0 ha. or any other adjacent lot where a dwelling exists on the adjacent lot within 30m. of the common lot line between two adjacent lots;
- (b) Abandoned wells shall be decommissioned in accordance with the requirements of the Ministry of the Environment, or fully protected against accidental opening.
- (c) Noxious weeds, as defined by the Weed Control Act, R.S.O. 1990, c.W.5, as amended, and regulations passed under the Act, such as ragweed, poison ivy and thistles, among others, shall be eliminated from the yard.

(d) wrecked, discarded, dismantled, unlicensed, unplated, derelict and abandoned vehicles, machinery, campers, trucks, tractors, construction equipment, buses, streetcars, trailers, boats and any other similar types of items shall not be parked, stored or left in a yard or on any lot that is not otherwise exempt from the requirements of this by-law, as identified in Schedule "A", unless it is necessary for and ancillary to the operation of a business enterprise or farm use lawfully established on the property.

4.02 Sewage and Drainage

(a) Sewage or organic waste shall be discharged into a system approved by the Ministry of the Environment and/or the Dufferin County Building Department and no sewage or waste water of any kind shall be discharged onto the surface of the ground, whether onto a natural or artificial surface, drainage system or into any lake, stream, ditch or watercourse.

(b) No roof drainage or waste water of any kind shall be discharged on public sidewalks or neighbouring property.

(c) No natural soil, topsoil, road gravel or other fill material shall be permitted to erode by the action of wind or storm-water runoff if such material is being carried onto adjacent property or into lakes, streams, ditches or watercourses.

(d) Storm water shall be drained from yards in a manner designed to prevent excessive ponding or the entrance of water into a basement or cellar of other property owners.

4.03 Safe Passage

Steps, walks and driveways shall be maintained so as to afford safe passage under customary use and weather conditions.

4.04 Accessory Buildings or Fences

(a) Accessory buildings and fences shall be kept in good repair and free from health, fire and accident hazards.

(b) Barbed or razor wire shall not be used for fencing purposes on any lot in any built-up residential community, hamlet or estate residential area except where the fence is on the boundary next to an adjacent agriculture or rural area.

4.05 Garbage Control

(a) Every building and every dwelling unit within every dwelling shall be provided with sufficient receptacles to contain all garbage, rubbish and ashes which is to be stored outside of a building.

(b) Garbage, rubbish and ashes shall be removed and disposed of at the Corporation's approved landfill site or, where waste collection services are provided by the Corporation, made available for removal in accordance with the pertinent by-law of the Corporation and all amendments thereto.

- (c) Plastic bags containing garbage or rubbish shall not be stored outdoors unless protected from damage.

4.06 Signs

Signs shall be maintained in good repair and shall be mounted in a safe manner to prevent any hazard to persons or property.

4.07 Construction, Storage, Salvage and Scrap Yards

All property, whether in operation as a commercial enterprise or not, shall be effectively screened from other property, streets or roads by suitable fences, hedges, trees or landscaping where such property is used for the storage of machinery, goods, salvage or scrap, the parking of vehicles, the operations of machinery or when used for any other purpose which may detract from the good appearance of or from an abutting or neighbouring residential property.

SECTION 5 - BUILDING STANDARDS

5.01 Vermin Control

- (a) Every property shall be maintained so as to be as free as possible from rodents, insects and vermin, and the methods used for exterminating these pests shall be in accordance with the provisions of The Pesticides Act, and all regulations made thereunder.
- (b) Any opening in a basement, cellar, crawl space or roof space used or intended to be used for ventilation, and other opening in a basement, cellar, crawl space or roof space which might admit vermin, shall be screened in order to effectively exclude vermin.

5.02 Building Standards

- (a) For the protection of the public, passers by and visitors, the exterior walls, roof, chimneys, eaves, foundations, doors, shutters, balconies, porches, exterior steps or stairs, ramps and signs appurtenant to or attached to any building or structure shall be maintained so as to be free of defects which may constitute possible accident hazards.
- (b) Every part of any building shall be maintained in a safe and structurally sound condition so as to be capable of sustaining safely its own weight and any additional weight as may be put on it through normal use. Building materials which have been damaged or show evidence of rot or other deterioration shall be repaired or replaced.
- (c) Exterior building walls and components shall be maintained in good repair free from cracked, broken, rotten, loose or warped masonry, stucco and other defective cladding or trim.
- (d) Roofs of buildings and their components shall be maintained in a weathertight condition so as to prevent the leakage of water into the building and shall be free from loose or unsecured objects or materials.
- (e) The exterior of the foundation walls of buildings shall be maintained in structurally sound condition.

(f) All other exterior surfaces shall be composed of materials which provide adequate protection from the weather.

5.03 Egress

(a) Every building shall have a separate access so as to provide a safe, continuous and unobstructed exit from the interior of the building to the exterior at street or grade level.

(b) A secondary means of egress, as required by the Building Code Act, shall be provided from every separate dwelling unit located on a floor above the main or first floor, so as to provide a safe and convenient means of egress in case of an emergency.

(c) The means of egress and fire warning devices in all buildings shall be to the satisfaction of the applicable Fire Department serving that area of the Township.

SECTION 6 - ADMINISTRATION and ENFORCEMENT

6.01 Property Standards Officer

(a) This By-law shall be administered by the Corporation's Municipal By-law Enforcement Officer and by such other persons as are designated from time to time by the Council as the Property Standards Officers.

(b) Except where s/he is acting on her/his own initiative, the Property Standards Officer will act only on written and signed complaints submitted to the Corporation's municipal office.

(c) The By-law Enforcement Officer shall also have all the authorities provided under this by-law to inspect and enforce complaints from residential rental tenants against the Maintenance Standards contained within the *Residential Tenancies Act* (RTA) and enforce those standards.

6.02 Entry by Property Standards Officer

The Property Standards Officer may, upon producing proper identification, enter upon any property at any reasonable time for the purpose of inspecting the property to determine:

(a) whether the property conforms to the standards prescribed in this by-law; or

(b) whether there is compliance with an order made under this by-law and the Ontario Building Code Act.

6.03 Order by Property Standards Officer

If the Property Standards Officer finds that a property does not conform with any of the standards prescribed in this by-law, the Officer may make an order,

(a) stating the municipal address or the legal description of the such property;

- (b) giving reasonable particulars of the repairs to be made or stating that the site is to be cleared of all buildings, structures debris or refuse and left in a graded and leveled condition;
- (c) indicating the time for complying with the terms and conditions of the order and giving notice that, if the repairs or clearance is not carried out within that time the municipality may carry out the repair or clearance at the owner's expense, and
- (d) indicating the final date for giving notice of appeal of the order.
- (e) the order shall be served on the owner of the property and such other persons affected by it as the Property Standards Officer determines and a copy of the order may be posted on the property.
- (f) the order may be registered in the proper land registry office and, upon such registration, any person acquiring any interest in the land subsequent to the registration of the order shall be deemed to have been served with the order on the day on which the order was served under the previous subsection and, when the requirements of the order have been satisfied, the Clerk of the Corporation shall forthwith register in the proper land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of the order.

6.04 Property Standards Committee

- (a) The current members of the municipal Council shall serve as The Property Standards Committee, hereinafter referred to as "Council" for the purposes of this Section.
- (b) An owner or occupant of property who has been served with an order made under the provisions of the previous section of this by-law or sub-section 15.2(2) of the Building Code Act, and who is not satisfied with the terms or conditions of the order may appeal to Council by sending notice of appeal by registered mail to the Clerk within fourteen days after being served the order.
- (c) The original complainant or complainants may make a written request to receive notice of any appeal, and notice shall be registered mail not later than ten days prior to the hearing of the appeal, and the original complainant or complainants shall also be entitled to appear before Council to present their views on the matter at the hearing.
- (d) If an appeal is taken, Council shall hear the appeal and shall have all the powers and functions of the Property Standards Officer and may;
 - a) confirm, modify or rescind the order to demolish or repair;
 - b) extend, or shorten the time for complying with the order if, in Council's opinion, the general intent and purpose of the by-law and of the Official Plan are, in so doing, maintained.
- (e) Any owner or occupant or person affected by a decision of Council may appeal to a judge of the Ontario Court (General Division) by notifying the Clerk of the Township in writing and by applying to the Ontario Court (General Division) for an appointment within fourteen days after the sending of a copy of the decision.

(f) In accordance with the provisions of the Building Code Act, on an appeal of a Property Standards Committee decision, the judge of the Ontario Court (General Division) has the same powers and functions as the Property Standards Committee (Council)

(g) Where no appeal has been taken within the time prescribed or after an appeal pursuant to the provisions of this by-law and the Building Code Act is completed, the order shall be final and binding upon the owner or occupant who shall make the repair or effect the demolition within the time and in the manner specified in the order.

6.05 Certificates of Compliance

(a) Certificates of Compliance shall be in the form as set out in Schedule “B”, and shall be issued only upon written request and the payment of the appropriate fee.

(b) The fees for certificates of compliance shall be as follows:

\$75 for a residential property containing one dwelling unit, plus \$50 for each additional dwelling unit for a residential property containing more than one dwelling unit; and

\$75.00 for any other commercial, industrial, institutional, agricultural, rural, multiple-use or vacant property.

NOTE: The issuance of a Certificate of Compliance herein does not relieve the recipient from compliance with the requirements of other applicable by-laws, regulations and statutes and it does not constitute an Occupancy Permit under the Building or Zoning By-laws of the Corporation.

6.06 Conflicts with Other By-laws and Statutes

Wherever a standard established by this By-law is different from a standard in relation to the same matter established by any other by-law in force in the Township of Mulmur or statute of the government of Canada or Ontario, the standard which provides the higher degree of protection for the health, safety and welfare of the occupants and of the general public shall prevail

6.07 Power of Corporation to Repair or Demolish

If the owner or occupant of property fails to repair or to demolish the property in accordance with an order as confirmed or modified, the Corporation in addition to all other remedies,

(a) shall have the right to repair, clean-up or demolish the property accordingly and for this purpose with its servants and agents from time to time to enter in and upon the property without a warrant.

(b) shall not be liable to compensate such owner, occupant or any other person having an interest in the property by reason of anything done by or on behalf of the Corporation in its reasonable exercise of its powers under the provisions of this by-law; and

(c) shall have a lien for any amount expended by or on behalf of the Corporation under the authority of this by-law together with interest thereon, upon the property in respect of which such amount was expended, and the certificate of the Clerk of the Corporation as to such amount shall be final and such amount shall be deemed to be taxes and may be added to the collectors roll to be collected in the same manner as municipal realty taxes, or by action in any competent court. The "amount expended" shall include materials, labour, equipment, administration, fees, charges and legal expenses.

6.08 Immediate Danger to Health and Safety

If, upon inspection of a property or building, the Property Standards Officer is satisfied that there is non-conformity with the standards prescribed in this by-law to such extent as to pose an immediate danger to the health and safety of any person, the Property Standards Officer may make an order containing particulars of the order and requiring remedial repairs or other works to be carried out immediately to terminate the danger. The provisions of Section 15.7 of the Building Code Act, shall apply with regard to such an order and the proceedings arising from it.

SECTION 7 - PENALTIES

7.01 Penalties

(a) Every person or Corporation who contravenes any of the provisions of this By-law is guilty of an offence.

(b) Each day of contravention is a separate offence.

NOTE: Some provisions in this by-law repeat provisions of the Building Code Act and the penalty for those provisions is prescribed by the Building Code Act. Other provisions fall under the Provincial Offences Act. There is also provision for the Corporation's costs being awarded in proceedings. There is also a victim surcharge of approximately 15%.

NOTE: The Building Code Act provides as follows:

s. 36(3) A person who is convicted of an offence is liable to a fine of not more than \$25,000 for a first offence and to a fine of not more than \$50,000 for a subsequent offence.

s.36(4) If a corporation is convicted of an offence, the maximum penalty that may be imposed upon the corporation is \$50,000 for a first offence and \$100,000 for a subsequent offence and not as provided in subsection (3).

NOTE: The Provincial Offences Act provides as follows:

s. 61 Except where otherwise expressly provided by law, every person who is convicted of an offence is liable to a fine of not more than \$5,000.

SECTION 8 - VALIDITY

If a part of this by-law for any reason is held to be invalid, the invalid part shall be deemed to be severed and the remainder of the by-law shall remain in effect until repealed.

NOTE: The Building Code Act, has additional specific provisions for a number of procedural and substantive matters, including entry and inspection of premises, hearing and appeal procedure and powers.

By-law No. 9-02 is hereby rescinded in its entirety.

READ A FIRST AND SECOND TIME, this 7th day of March, 2006.

READ A THIRD TIME AND FINALLY PASSED this 7th day of March, 2006.

Gord Gallagher

Terry Horner

GORD GALLAUGHER, MAYOR

TERRY HORNER, CLERK

Schedule “A”

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