

**THE CORPORATION OF THE TOWNSHIP OF GREATER MADAWASKA**

**BY-LAW NUMBER 12 – 2007**

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Being a by-law for prescribing Standards for and the Maintenance and Occupancy of property within the Township of Greater Madawaska.

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**WHEREAS** Section 15.1 (3) of The Building Code Act, S.O. 1992, c. 23, authorizes municipalities to enact by-laws prescribing standards for the maintenance and occupancy of all property within the municipality or within any defined area or areas and for prohibiting the occupancy use of such property that does not conform to the standards;

**AND WHEREAS** requiring property, that does not conform with the standards, to be repaired and maintained so as to comply with said standards as described herein or to be cleared of all buildings and structures, debris or refuse and left in graded and level condition.

**NOW THEREFORE** the Municipal Council of the Corporation of the Township of Greater Madawaska hereby enacts as follows:

**SECTION 1 – SHORT TITLE**

1.1 This By-law may be cited as the "Property Standards By-Law".

**SECTION 2 - DEFINITIONS**

In the By-Law

- 2.1 **“Accessory Building”** means a detached building or structure, not used for human habitation, which is subordinate to the primary use of the same property.
- 2.2 **“Apartment Building”** means a building containing more than four dwelling units with individual access from an internal corridor system.
- 2.3 **“Approved”** means acceptance by the Property Standards Officer.
- 2.4 **“Basement”** means that space of a building that is partly below grade, which has half or more of its height, measured from floor to ceiling above the average exterior finished grade.
- 2.5 **“Cellar”** means that space of a building that is partly or entirely below grade, which has half or more of its height, measured from floor to ceiling below the average exterior finished grade.
- 2.6 **“Chief Property Standards Officer”** shall mean the Chief Building Official and/or the By-Law Enforcement Officer of the municipality.
- 2.7 **“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 purpose of human habitation.
- 2.8 **“Dwelling Unit”** means a room or a suite of rooms operated as a housekeeping unit, used or intended to be used as a domicile by one or more persons and supporting general living conditions usually including cooking, eating, sleeping, and sanitary facilities.
- 2.9 **“First Storey”** means that part of a building having a floor area closest to grade with a ceiling height of more than 1.8 metres (6 ft.) above grade.
- 2.10 **“Grade”** means the average level of finished ground adjoining a building – at all exterior walls sides of a stairway, a landing, a balcony, a mezzanine, a gallery, a raised walkway, and other locations as required preventing accidental falls from one level to another. Such barriers may or may not have openings through them.

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- 2.11 **“Habitable Room”** means any room in a dwelling unit used for or capable of being used for living, cooking, sleeping or eating purposes.
- 2.12 **“Inoperative Vehicle”** means any unlicensed vehicle or any vehicle having missing parts, including: tires, damaged or missing glass, deteriorated or removed metal components, which prevents its mechanical function.
- 2.13 **“Last Known Address”** means the address which appears on the Assessment Roll of the Corporation of the Township of Greater Madawaska.
- 2.14 **“Means of Egress”** means a continuous, unobstructed path of travel provided by a doorway, hallway, corridor, exterior passage way, balcony, lobby, stair, ramp, or other exit facility used for the escape of persons from any point within a building, a floor area, a room, or a contained open space to a public thoroughfare or an approved area of refuge usually located outside the building.
- 2.15 **“Multiple Dwelling”** means a building containing three or more dwelling units.
- 2.16 **“Municipality”** means the Corporation of the Township of Greater Madawaska.
- 2.17 **“Non-Habitable Room”** means any room in a dwelling or dwelling unit other than a habitable room and includes a bathroom, a toilet room, laundry, pantry, lobby, corridor, stairway, closet, boiler room, or other space for service and maintenance of the dwelling for public use, and for access to and vertical travel between stories, and basement or part thereof which does not comply with the standards of fitness for occupancy set out in this By-Law.
- 2.18 **“Non-Residential Property”** means a building or structure or part of a building or structure not occupied in whole or in part for the purpose of human habitation, and includes the lands and premises appurtenant and all of the outbuildings, fences or erections thereon or therein.
- 2.19 **“Occupant”** means the person or persons who occupy the property.
- 2.20 **“Owner”** - means 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 work is used whether on his own account or as agent or trustee or any person or who would so 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 and occupancy of the property in this by-law.
- 2.21 **“Person”** means an individual, firm, corporation, association or partnership.
- 2.22 **“Property”** means a building or structure or part of a building or structure and includes the lands and premises appurtenant thereto and all mobile homes, mobile buildings, mobile structures, outbuildings, accessory buildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property.
- 2.23 **“Quarries”** means any pit, hole or excavation, operating under a license.
- 2.24 **“Residential Property”** means any property that is used or designed for use as a domestic establishment in which one or more persons usually sleep and prepare and serve meals, and includes any lands or buildings that are appurtenant to such establishment and all stairways, walkways, driveways, parking spaces, and fences associated with the dwelling or its yard.
- 2.25 **“Standards”** – means the standards of physical condition and of occupancy prescribed for property by this By-Law.
- 2.26 **“Toilet Room”** means a room containing a water closet and a wash basin.

- 2.27 **“Township”** – means the Corporation of the Township of Greater Madawaska.
- 2.28 **“Waste”** includes refuse, debris or garbage of any kind whatsoever and without limiting the generality of the foregoing includes rubbish, inoperative vehicles (maximum of two (2) in a built-up area) and mechanical parts, furnaces, water or fuel tanks, furniture, paper, cartons, crockery, glassware, cans, garden refuse (composting excluded), construction refuse from demolition projects and old clothing.
- 2.29 **“Yard”** – means the land other than publicly owned land around and appurtenant to the whole or any part of a dwelling or buildings and structures and used or intended to be used or capable of being used in connection with the dwelling or buildings and structures.

### **SECTION 3 – GENERAL STANDARDS FOR ALL PROPERTY**

- 3.1 Every yard, vacant lot and/or vacant building shall be kept clean and free from rubbish or debris and objects or conditions that may create a health, fire or accident hazard. This shall be verified based upon an inspection by the Chief Building Official or the Chief Fire Official of the municipality.
- 3.2 All lands which have been developed and vacant lots located in a developed area shall be kept cleared of heavy undergrowth, long grass, brush and noxious weeds as defined by the Weed Control Act R.S. O. 1990 and amendments thereto and its regulations there under.
- 3.3 All land shall be kept clean of waste.
- (i) Notwithstanding the provision of this Section 2.9 of this By-law it shall not be deemed to prohibit the storing of automotive and mechanical equipment, salvage and similar material which is required for business purposes as part of an operating business including any Residential Zone and shall be stored no closer than 500 feet of a public travelled road and which must be screened from view by a visually acceptable form of buffer.
- (ii) The maximum number of inoperative vehicles in any Residential Zone shall be limited to a maximum of two (2) and such vehicles will be screened from view by an appropriate form of buffer.
- (iii) All storage of machinery must be kept in a safe manner and not to allow for any seepage into the ground water. Gas tanks and crankcases are to be removed.
- (iv) Storage of automotive and mechanical equipment, salvage and similar material within a Commercial or designated Zone must be **screened from view** by a fence.
- 3.4 No land shall be used for the dumping or disposal of waste.
- (i) Except: If a Provisional Certificate of Approval for Organic Soil Conditioning Site has been approved by the Ministry of the Environment.
- 3.5 No person shall dump or dispose of waste on any lands.
- (i) Except: If a Provisional Certificate of Approval for Organic Soil Conditioning Site has been approved by the Ministry of the Environment.
- 3.6 Notwithstanding any of the provisions of this By-Law, nothing shall be deemed to interfere with the filling or raising of land with earth or rock fill done as an adjunct to building operations or the disposal of waste on any lands which have been designed for that purpose by By-Law of the Corporation.

#### **SECTION 4 – POWER OF THE CORPORATION TO DEMOLISH OR REPAIR**

- 4.1 Where an Order of the Chief Property Standards Officer is deemed to have been confirmed pursuant to this By-law or is confirmed or deemed to be confirmed or modified by an appointed Committee, in the event of an Appeal to a Judge the Order is confirmed or modified by the Judge, it shall be final and binding upon the Owner and/or Occupant and the Owner and/or Occupant shall make the repair or effect the demolition within the time and in the manner specified in the Order or Decision.
- 4.2 If the Owner and/or Occupant of the property, fails to demolish the property or to repair in accordance with the Order as confirmed or modified, in addition to all other remedies:
- i) the Corporation shall have the right to demolish or repair the property accordingly and for this purposes its servants and agents from time to time may enter in, on and upon the property; and
  - ii) the Corporation shall apply the cost or the repairs or demolition, if not so paid, to the Collector's Roll of Taxes for the property for the current year and the amount so entered shall be collected as municipal taxes; and
  - (iii) the Corporation 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 pursuant to the provisions of the by-law.

#### **SECTION 5 – ENFORCEMENT AND PENALTIES**

- 5.1. When any lands and buildings are not maintained pursuant to the requirements of this By-Law, *upon receipt of a written complaint dated and signed by the complainant to the Township of Greater Madawaska*, the Chief Property Standards Officer shall send a Notice by registered mail or by hand to the Owner's and/or Occupant's last known address requiring him/her to make the lands and buildings conform to the requirements of this By-Law and the Notice shall specify the time allowed for compliance.
- 5.2. Where a Notice has been sent to the Owner and/or Occupant by the Chief Property Standards Officer pursuant to this By-Law, and the requirements of the Notice have not been complied with, the Chief Property Standards Officer shall issue an Order, failing which the municipality may remedy the situation pursuant to Section 4 of this By-Law.
- 5.3 Every person who contravenes any of the provisions of this By-Law is guilty of an offence and on summary conviction is liable to penalties set out in the Building Code Act, 1992.
- 5.4 No person shall obstruct or attempt to obstruct an Officer or a person acting under the Officer's instructions in the exercise of a power or an owner who fails to comply with a final and binding Order made under the Building Code Act and/or this by-law and, if the person or owner is a corporation who knowingly concurs in the contravention or failure to comply is guilty of an offence and on conviction is liable to a fine of not more that \$50,000 for a first offence and to a fine of not more that \$100,000 for any subsequent offence. (BCA, S.O. 1992, c.23, Sec 36)
- 5.5 If a corporation is convicted of an offense under Part 5.1, the maximum penalty that may be imposed upon the corporation is \$100,000 for a first offence and \$200,000 for any subsequent offence. (BCA, S.O. 1992, c.23, Sec 36)

## **SECTION 6 – APPEAL PROCESS**

- 6.1 When an owner or occupant upon whom an order has been served is not satisfied with the terms or conditions of that order, he/she may appeal to the Committee by sending notice of an appeal by **registered mail** to the Secretary of the Committee within fourteen (14) days after service of the order, and in the event that no appeal is taken, the order shall be deemed to have been confirmed.
- 6.2 **Powers of Committee on Appeal** – When an appeal has been taken, the Committee shall hear the appeal and shall have all the powers and functions of the Officer who issued the order, and may confirm, modify or rescind the order to demolish or repair, or may extend the time for complying with the order provided that, in the opinion of the Committee, the general intent and purpose of this by-law and of the Official Plan are maintained.
- 6.3 The Secretary of the Committee, in receipt of the notice of appeal referred to in Part 6.1 shall:
- (i) Determine the date, place and time of the Hearing of the appeal which shall take place not less than seven (7) days and not more than thirty (30) days from the date of receipt of the aforesaid notice; and,
  - (ii) Give notice in writing of the date, place and time of the Hearing referred to Part 6.3 (i) above to: the Appellant, the Officer who issued the order and any other interested persons who appeared at the Hearing held pursuant to the order, said notice to be **served personally** or by **registered mail**.
- 6.4 **Conduct of Appeal Process**
- (i) The Committee shall hold the Hearing referred to in Part 6.2 of the date, place and time set out in the notice, and have all the powers and functions of an Officer.
  - (ii) The Committee may adopt its own rules and procedures, pursuant to Section 15.6(8) of the Building Code Act.
  - (iii) The applicant may appear with or without Counsel at the Hearing, to present his/her appeal.
  - (iv) The Corporation may be represented at the Hearing by the Corporation’s solicitor, or his/her duly authorized subordinate or assistant, who is entitled to reply to the appeal presented on behalf of the applicant.
  - (v) The Committee may confirm, modify or rescind the order to demolish or repair, or extend the time for complying with the order provided that, in the opinion of the Committee, the general intent and purpose of the By-Law and of the Official Plan of The Corporation is maintained.
  - (vi) The Committee shall give its decision in writing.
  - (vii) The Secretary of the Committee shall notify the Appellant, the Officer who issued the order, and any other persons who appeared at the Hearing of the appeal of the decision, by causing a copy to be served **personally** or by **registered mail**.
- 6.5 **Appeal to Ontario Court**
- (i) Any owner, occupant, person or corporation affected by a decision may appeal to a Judge of the Ontario Court (General Division) by notifying the Clerk-Treasurer of The Corporation in writing and by applying to the Ontario Court (General Division) for an appointment within fourteen (14) days after sending a copy of the decision.

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**SECTION 7 – PROPERTY STANDARDS COMMITTEE**

- 7.1 (i) A Committee, to be known as The Property Standards Committee of The Corporation is hereby established in accordance with this by-law.
- (ii) The Committee of The Corporation shall consist of the Committee of Adjustment. Section 15.3 of the Building Code Act, provides for appeals from orders made under this by-law to the Committee and to a Judge of the Ontario Court.
- (iii) The Committee shall elect a Chairperson from its members; and make provisions for a Secretary of the Committee.

**SECTION 8 – REPEAL**

- 8.1 That any previous by-laws of the former Townships of Bagot, Blythfield, Brougham, Griffith and Matawatchan relating to property standards are hereby repealed.

**SECTION 9 – ENACTMENT**

- 9.1 This By-Law shall come into force and take effect September 1, 2007.

**READ A FIRST AND SECOND TIME THIS 15<sup>th</sup> DAY OF March, 2007.**

**READ A THIRD TIME AND PASSED THIS 15th DAY OF March, 2007.**

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REEVE – Peter R. Emon

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CAO/CLERK - John A. Baird

