

PROPERTY MAINTENANCE AND OCCUPANCY STANDARDS

BY-LAW

of the

MUNICIPALITY OF WEST GREY

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THE CORPORATION OF THE MUNICIPALITY OF WEST GREY

BY-LAW NUMBER 4 - 2004

BEING a By-law for prescribing standards for maintenance and occupancy of property within the Municipality of West Grey.

WHEREAS the Municipal Council of the Corporation of the Municipality of West Grey, pursuant to the provisions of the Ontario Building Code Act, 1992, and amendments thereto, deems it desirable to enact and pass the following By-law for prescribing standards for the maintenance and occupancy of property within the Municipality of West Grey and for prohibiting the occupancy or 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 for the sites thereof to be cleared of all buildings, structures, debris and refuse and left in a graded and levelled condition;

AND WHEREAS there is in effect in the Municipality of West Grey an Official Plan that includes provisions relating to such property conditions;

NOW THEREFORE THE COUNCIL OF THE MUNICIPALITY OF WEST GREY HEREBY ENACTS AS FOLLOWS:

1. TITLE

This By-law may be cited as the "Property Maintenance and Occupancy Standards By-law of the Municipality of West Grey".

2. ADMINISTRATION AND ENFORCEMENT

This section prescribes the procedure for the enforcement of standards and shall be carried out in accordance with the provisions of the Ontario Building Code Act, 1992, as amended.

2.1. Application

This By-law shall only apply to all properties within the boundaries of the Municipality of West Grey.

2.2. Property Standards Officer

The Council of the Municipality of West Grey shall, by By-law or resolution, appoint a Property Standards Officer, who shall be responsible for the administration and enforcement of this By-law.

2.3. Inspection

The Property Standards Officer shall attend and inspect any property:

- i) upon receipt of a written complaint submitted in the form and manner prescribed by Council; OR
- ii) upon written instruction by Council; OR
- ii) if the Property Standards Officer has reasonable grounds to believe that the property does not comply with the standards of this By-law.

2.4. Right to Enter and Inspect

An Officer or any person acting under his instructions;

- a) may, at all reasonable times and upon producing proper identification, enter and inspect any property, but
- b) shall not enter any room or place actually used as a dwelling unit without,
 - i) the consent of the occupier, or
 - ii) the authority of a search warrant issued under Section 158 of the Provincial Offences Act, R.S.O. 1990.

2.5. Notice of Violation

If, after inspection, the Officer is satisfied that in some respect the property does not conform to the standards prescribed in this By-law, he or she shall serve or cause to be served by personal service upon, or send by prepaid registered mail to the owner of the property and all persons shown by the records of the land registry office and the sheriff's office to have any interest therein a notice containing particulars of the non conformity and may, at the same time, provide all occupants with a copy of such notice. The notice shall specify:

- a) the standards imposed by this By-law with which the property does not comply;
- b) the date upon which the owner must comply with the provisions of this By-law;
- c) that if the owner has not complied with the provisions of this By-law as specified in the said notice, the Officer may issue an order under Section 2.6 of this By-law;
- d) that the Officer may be contacted for the purpose of requesting information and advice or reporting what action is being or will be taken to affect compliance with the By-law.

2.6. Contents of Order

After affording any person served with a notice provided for by Section 2.5 an opportunity to appear before the Officer and to make representations in connection therewith, the Officer may make and serve or cause to be served upon or send by prepaid registered mail to such person an order containing;

- a) the municipal address or the legal description of such property;
- b) reasonable particulars of the repairs to be effected or a statement that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition and the period in which there must be a compliance with the terms and conditions of the order and notice that, if such repair or clearance is not so done within the time specified in the order, the municipality may carry out the repair or clearance at the expense of the owner; and
- c) the final date for giving notice of appeal from the order.

2.7. Order To Be Sent To Last Known Address

A notice of an order under Section 2.5 or 2.6 when sent by registered mail shall be sent to the last known address of the person to whom it is sent.

2.8. Substituted Service

If the Officer is unable to effect service under Section 2.5 or 2.6, he or she shall place a placard containing the terms of the notice or order in a conspicuous place on the property, and the placing of the placard shall be deemed to be sufficient service of the notice or order on the owner or other persons.

2.9. Registration of Notice

An order under Section 2.5 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 Section 2.5, and when the requirements of the order have been satisfied, the clerk of the municipality 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.

2.10. Certificate of Compliance

Following the inspection of a property, the Officer may, or on the request of the owner shall, issue to the owner a certificate of compliance if, in his or her opinion, the property is in compliance with the standards of this By-law. When a certificate of compliance is issued to the owner, the owner shall pay to the Municipality of West Grey a fee of \$25.00 that shall be collected by the Officer at the time of the issuance of such certificate. The Certificate of Compliance referred to in this Section shall be limited to the specific complaint received and shall not be deemed to certify that the property complies with every requirement of this By-law.

2.11. Power of Municipality to Repair or Demolish

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

- a) shall have the right to demolish or repair the property accordingly and for this purpose with its servants and agents from time to time enter in and upon the property and;
- 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 Municipality under the provisions of this subsection

and;

- c) shall have a lien for any amount expended by or on behalf of the Municipality

of West Grey under the authority of this section, together with interest thereon placed upon the property in respect of which amount was expended and the certificate of the Clerk of the Municipality as to such amount, shall be final.

2.12. Property Standards Committee

There shall be and is hereby established a Property Standards Committee of three rate payers of the Municipality of West Grey who shall hold office for a period of three years provided that on the first appointment the members shall hold office as follows:

- a) one member until the 1st day of January of the year following the date of appointment,
- b) one member until the 1st day of January of the second year following the date of appointment,
- c) one member until the 1st day of January of the third year following the date of appointment.

2.13. Vacancy

In the event of a vacancy resulting from the expiry of a term referred to in Section 2.12, Council shall appoint or reappoint the necessary member or members to fill such vacancy.

In the event of a vacancy occurring for any reason other than the expiry of a term during the terms referred to in Section 2.12, Council shall appoint the necessary member or members to fill the remainder of the term vacated.

2.14. Remuneration

Each member of the Committee shall be paid such remuneration as Council may, from time to time by By-law or resolution, provide.

2.15. Election of Chair

The members of the Committee shall elect one of themselves as chair and when the chair is absent through illness or otherwise, the Committee may appoint another member as acting chair and shall make provisions for a secretary for the Committee, and any member of the Committee may administer oaths.

2.16. Minutes

The secretary shall keep on file minutes and records of all applications and the decisions thereon and of all other official business of the Committee, and Section 253 of the Municipal Act, 2001 applies with necessary modifications to such documents.

2.17. Non-eligibility

A member of Council of the municipality or an employee of the municipality or of a local board thereof is not eligible to be a member of the Committee, but a teacher employed by a board of education or school board is not deemed to be an "employee" for the purpose of this section.

2.18. Quorum and Procedure

A majority of the Committee constitutes a quorum and the Committee may adopt its own rules of procedure but before hearing an appeal under Section 2.20 of this By-law shall give notice or direct that notice be given of such hearing to such persons as the Committee considers should receive such notice.

2.19. Appeal to Committee

When the owner or occupant upon whom an order has been served in accordance with Section 2.6, 2.7, or 2.8 is not satisfied with the terms or conditions of the order, the owner or occupant may appeal to the Committee by sending notice of appeal by registered mail to the secretary of the Committee within fourteen days

after service of the order, and, in the event that no appeal is taken, the order shall be deemed to have been confirmed. The Committee may, upon receiving an application by anyone affected by the order, extend the time period for appealing the By-law beyond the fourteen days set out herein.

2.20. Decision on Appeal

Where an appeal has been taken, the Committee shall hear the appeal and shall have all the powers and functions of the Officer and may confirm the order to demolish or repair or may modify or quash it or may 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 or Policy Statement of the Municipality of West Grey are maintained.

2.21. Appeal to Judge

The Municipality or any owner or occupant or person affected by a decision under Section 2.20 may appeal to a Judge of the Ontario Court (General Division) by so notifying the clerk of the Municipality of West Grey in writing and by applying for an appointment within fourteen days after the sending of a copy of the decision.

2.22. Scheduling of Hearing

The Judge shall, in writing, appoint a day, time and place for the hearing of the appeal and in the appointment may direct that it shall be served upon such persons and in such manner as he or she prescribes. The appointment shall be served in the manner prescribed by the judge.

2.23. Judge's Decision

The Judge on such appeal has the same powers and functions as the Committee.

2.24. Effect of Decisions

The order, as deemed to have been confirmed pursuant to Section 2.19 or as confirmed or modified by the Committee pursuant to Section 2.20, or, in the event of an appeal to the Judge pursuant to Sections 2.21, 2.22, 2.23 as confirmed or modified by the Judge shall be final and binding upon the owner and occupant who shall make the repair or effect the demolition within the time and in the manner specified in the order.

2.25. Violations and Penalties

An owner who fails to comply with an order that is final and binding pursuant to Subsection 2.24 is guilty of an offence and on conviction is liable to a fine in accordance with the Provincial Offences Act.

2.26. Severability

If a section of this Property Maintenance and Occupancy Standards By-law is for any reason held to be invalid, the remaining sections shall remain in effect until repealed.

2.27. Conflict With Other By-laws

Where a provision of this By-law conflicts with the provision of another By-law in force in the Municipality of West Grey, the provisions that establish the higher standards to protect the health, safety and welfare of the general public shall prevail.

2.28. Effective Date

This By-law shall come into full force and effect upon the final passing thereof.

3. DEFINITIONS

3.1. "Accessory Building" means a detached building or structure subordinate to main building or structure and, without limiting the generality of the foregoing, includes a building or structure, the use of which is incidental to that of a main building or structure.

- 3.2. "Agricultural Property" means lands, buildings or structures used for the purpose of animal husbandry, horticulture, bee-keeping, dairying, fallow and/or forestry, and shall include market gardening, fruit farming, field crops, pasturage, poultry keeping and greenhouses or any other farming use; includes the growing, raising, packing, treating, storing and sale of produce produced on the premises and other similar uses customarily carried on in the field of general agriculture and which are not obnoxious.
- 3.3. "Basement" means the portion of a building between two floor levels which is partly underground, but which has at least one-half of its height, from finished floor to finished ceiling, above the adjacent finished grade.
- 3.4. "Bathroom" means a room containing a water closet and basin and may contain a shower and/or bathtub.
- 3.5. "Building" means any structure used or intended for supporting or sheltering any use or occupancy.
- 3.6. "Building Code" means Building Code as defined under the Building Code Act, R.S.O. 1990 of the Province of Ontario including any regulations made thereunder, as amended from time to time.
- 3.7. "Cellar" means that portion of a building between two floor levels which is partly or wholly underground and which has more than one-half of its height, from finished floor to finished ceiling, below the adjacent finished grade.
- 3.8. "Committee" means the Property Standards Committee.
- 3.9. "Council" means the Municipal Council of the Municipality of West Grey.
- 3.10. "Dwelling" means a building or structure or part of a building or structure that is, or is intended to be used or has been used for the purpose of human habitation. This includes a building that would be used or would be intended to be used for such purposes, except for its state of disrepair and shall include every building on a residential property other than an accessory building.
- 3.11. "Dwelling Unit" means any property that is used or designed for use as a domestic establishment in which one or more persons may sleep and prepare and serve meals.
- 3.12. "Extermination" means the control and elimination of insects, termites, vermin, rodents or other pests by eliminating their harbouring places and by removing or making inaccessible or unpalatable materials that may serve as their food by poison, spraying, fumigating, trapping or by any other recognized and appropriate means of pest elimination.
- 3.13. "Fence" means a structure at or above grade level erected as a visual barrier or for the purpose of dividing or separating open space or for restricting ingress or egress to or from an open space.
- 3.14. "Former Town of Durham" means The Corporation of the Town of Durham, as it existed prior to January 1, 2001.
- 3.15. "Former Village of Neustadt" means The Corporation of the Village of Neustadt, as it existed prior to January 1, 2000.
- 3.16. "Garbage" means the animal and vegetable waste and related waste products resulting from the handling, preparation, cooking and consumption of food and drink, as well as other solid waste materials and goods resulting from residential, commercial, institutional and industrial operations.
- 3.17. "Good Repair" means that a building, structure or appurtenance thereof including mechanical equipment shall be maintained in such a condition so as to be free from accident or fire hazards, structurally sound, in good working order and not unsightly by reason of deterioration, damage or defacement.

- 3.18. "Habitable Room" means a room in a dwelling used or intended to be used primarily for human occupancy, but does not include a bathroom, toilet room, serving or storage pantry, laundry room, closet or corridor for living, eating, sleeping or cooking purposes.
- 3.19. "Medical Officer of Health" means the Medical Officer of Health for the Grey/Owen Sound Health Unit or successor thereof.
- 3.20. "Multiple Dwelling" means a building containing three or more dwelling units.
- 3.21. "Municipality" means the Municipality of West Grey.
- 3.22. "Non-Habitable Room" means any room in a dwelling unit other than a habitable room and includes a bathroom, toilet room, laundry room, lobby, corridor, stairway, closet, basement, boiler room, or space for service and maintenance of the dwelling.
- 3.23. "Occupancy" means the use or intended use of a building or part thereof for the shelter or support of persons, animals or property.
- 3.24. "Occupant" means any person or persons over the age of eighteen years in possession of the property.
- 3.25. "Officer" means a Property Standards Officer who has been assigned the responsibility of administering and enforcing the Property Maintenance and Occupancy Standards By-law.
- 3.26. "Owner" includes the person for the time being managing or receiving the rent of the land or premises in connection with which the word is used whether on the person's own account or as agent or trustee of any other 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 or maintain the property in accordance with the standards for the maintenance and occupancy of property.
- 3.27. "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, fences and erections thereon whether heretofore or hereafter erected and includes a vacant property and is divided into:
- a) "Non-Residential Property" - means property which is not occupied or capable of being occupied in whole or in part for the purpose of human habitation.
 - b) "Residential Property" - means property which is occupied or is capable of being occupied in whole or in part for the purposes of human habitation and is hereinafter referred to as a dwelling.
 - c) "Vacant Land" - means property on which there are no buildings or structures of any kind.
- 3.28. "Property, Rental" means any property for which a daily, weekly, monthly or yearly fee is charged by the property owner for its use.
- 3.29. "Person" includes an individual, association, firm, partnership, corporation, trust, incorporated company, organization, trustee, or agent, and the heirs, executors or other legal representatives of a person to whom the same can apply according to law.
- 3.30. "Repair" includes the provision of such facilities and the making of additions or alterations or the taking of such action as may be required so that the property shall conform with the standards established in this By-law.
- 3.31. "Rooming Unit" means one or more habitable rooms with shared sanitary, cooking or eating facilities that are rented or are capable of being rented to a

person for gain.

- 3.32. "Rubbish" means any combustible or noncombustible discarded or waste materials except garbage.
- 3.33. "Salvage Yard" shall mean the use of lands, building, or structures for the storage and/or handling of scrap materials, which, without limiting the generality of the foregoing, shall include waste paper, rags, bones, bottles, bicycles, vehicles, tires, metal and/or scrap material and salvage and includes a junk yard, scrap metal and an automobile wrecking yard or yard premises.
- 3.34. "Sewage" means any liquid waste containing animal, vegetable or mineral matter in suspension of solution but does not include roof water or storm runoff.
- 3.35. "Sewage System" means a municipal sanitary sewage system or a private sewage disposal system.
- 3.36. "Standards" means the standards of physical condition and of occupancy prescribed for property in this By-law.
- 3.37. "Structurally Sound" means construction capable of withstanding the forces placed upon the building under normal use.
- 3.38. "Ventilation" means the process of supplying or removing air by natural or mechanical means to or from any space.
- 3.39. "Yard" means lands, other than public highways, around and appurtenant to the whole or any part of a property used or intended to be used or capable of being used in connection with the property.

4. RESIDENTIAL PROPERTY MAINTENANCE AND OCCUPANCY STANDARDS

4.1. Maintenance of Yards

4.1.1. Garbage and Rubbish

Yards shall be kept clean and free from garbage, rubbish, brush, discarded materials, refuse and other debris, and from objects or conditions including holes and excavations that might create a health, fire or accident hazard, except that which is stored in suitable clean receptacles for removal by the Municipality.

4.1.2. Weeds

Yards shall be kept and maintained free from excessive growth of weeds and grasses. No heavy undergrowth or noxious weeds designated as such under the Weed Control Act, as amended, shall be permitted in any yard.

4.1.3. Trees

All trees shall be kept pruned so as to be free from dead and dying branches, the collapse of which would be capable of causing injury or damage. Dead trees and shrubs shall be promptly removed from the premises, which would be capable of causing injury and damage.

4.1.5. Vehicle Storage

Without limiting the generality of Section 4.1.1., any motor vehicle, trailer, traction engine, farm tractor, road building machinery and any vehicle drawn, propelled or driven by any kind of power or any boat, or any parts or sections thereof which are in a wrecked, discarded, dismantled, partially dismantled, inoperative or abandoned condition may not be parked, stored or left in the open, except as required for normal farming practice. Any such vehicles, trailers, boats or component thereof must be relocated to a completely enclosed location or otherwise removed from the property.

4.1.6. Miscellaneous Storage

No machinery, vehicle, other object, or material not associated with the

such as
use

normal occupancy and permitted use of a property, including among other things appliances, paper, cartons, boxes or building materials lumber, masonry units or glass other than that intended for immediate shall be stored or allowed to remain in a residential yard.

4.1.7. Outdoor Storage

All permitted vehicles, machinery and material stored on a property shall be stored in a neat, orderly manner preferable in an enclosed structure and in such a way that it does not create a negative impact on surrounding properties.

4.1.8. Safety

All yards shall be maintained free from dangerous holes or excavations.

4.1.9. Structures

All collapsed or dilapidated buildings or structures shall be removed from the premises.

4.1.10. Grass

All sodded and grass covered areas shall be kept so as not to present an unsightly appearance.

4.1.11. Damaged Structures

Where any structure has been damaged by fire, explosion, or by any other natural or man-made force, all damaged materials shall be removed from the property within 60 days of damage except that such time period may be extended by resolution of Council where in the opinion of Council the 60 day time period may create a hardship.

4.1.12. Wells

All wells shall be capped with a structurally secure material such as concrete or similar material and shall be maintained in good repair.

4.1.13. Safe Passage

Steps, walks and driveways shall be maintained as to afford safe passage under normal use and weather conditions. Property owners are responsible for the removal of icicles that are hazardous to pedestrians.

4.2. Accessory Buildings and Structures

4.2.1. Fences

All fences, radio and television towers and other structures and all accessory buildings shall be kept in good repair, and free from health, fire and accident hazards.

4.3. Sewage and Drainage

4.3.1. Sewage Disposal

Sewage or organic waste shall be discharged into the municipal sewage system. Where a sewage system does not exist, sewage or organic waste shall be disposed of in a manner acceptable to the local health authorities.

4.3.2. Surficial Sewage Disposal

Sewage of any kind shall not be discharged onto the surface of the ground, whether into a natural or artificial surface drainage system or otherwise.

4.3.3. Surface Water

Roof drainage or surface water shall:

- a) be drained from the lands so as to prevent recurrent ponding or entrances of water into a basement or cellar, and
- b) shall not be discharged on sidewalks, stairs or neighbouring property or into sanitary sewers.

4.4. Exterior Maintenance of Dwellings

4.4.1. Maintenance Standards

The exterior walls and components of all buildings and dwellings shall be kept and maintained to prevent the infiltration of moisture and pests and to ensure the building does not present any hazards to its occupants or users.

4.4.2. Roof and Roof Structures

A roof on a dwelling including the fascia board, soffit, cornice and flashing shall be maintained in a watertight condition so as to prevent leakage of water into the dwelling.

4.4.3. Foundations

The foundation walls of a dwelling shall be structurally sound and maintained in good repair free from major cracks, breaks or other defects and where necessary shall be so maintained by shoring of the walls and joints, grouting masonry cracks, parging and waterproofing the walls or floor and installing subsoil drains at footing levels.

4.4.4. Exterior Stairs

All outside stairs, balconies, verandas, porches and every other outside appurtenance shall be maintained in good repair. All balustrades, handrails and supporting structures shall be adequate to safely support persons using the same.

4.4.5. Chimneys

Any heating or cooking apparatus or equipment used in the process of burning fuel or combustible material except gas or propane stoves, shall be properly vented to the outside air by means of a smoke-pipe, vent pipe or similar adequate chimney. Such heating or cooking apparatus or cooking equipment shall be properly connected to the chimney or flue by a permanently sealed connection, with the exception of gas or propane stoves. All connections between gaseous and liquid fuel burning appliances and equipment shall be maintained in good repair, and all gaseous and liquid fuel burning shall comply with the relevant Provincial and/or Municipal regulations.

4.4.6. Household Garbage Storage

All household garbage shall be stored in a sanitary manner in containers of durable, leak-proof and non-absorbent material or plastic garbage bags effectively closed with a wire tie or otherwise and shall not be permitted to accumulate and remain on the premises to an extent or for a length of time that might constitute a health hazard. In addition, plastic garbage bags shall not be stored outside a building unless contained in an enclosed structure or capped container. The outside storage of plastic garbage bags other than within an enclosed structure or capped container shall however be permitted with a period of time not exceeding 24 hours prior to municipal garbage pickup.

4.4.7. Pest Prevention

Every dwelling shall be kept free of rodents, vermin and all insects at all times, and methods used for extermination of rodents or insects or both shall be in accordance with the provisions of the current Provincial Pesticides Act and all regulation passed pursuant thereto.

5. VACANT LAND PROPERTY STANDARDS (RENTAL AND NON-RENTAL)

5.1. Rubbish and Debris

Vacant lands shall be kept free from garbage, rubbish and debris and conditions that may create a health, fire or accident hazard.

5.2. Weeds

Vacant lands shall be kept and maintained free from the excessive growth of weeds and grasses.

5.3. Drainage

Vacant lands shall be graded and drained to prevent the recurrent ponding of storm water.

Read a first and second time this _____ day of _____, 2004.

Read a third time and finally passed this 5th day of January, 2004.

Mayor

CAO/Clerk