

**BY-LAW NO. 116**

**TOWN OF GRAND BAY-WESTFIELD BY-LAW RESPECTING RESIDENTIAL PROPERTIES MINIMUM STANDARDS**

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The Council of the Municipality of Grand Bay-Westfield under authority vested in it by the *Municipalities Act*, R.S.N.B. 1973, c.M-22 and amendments thereto enacts as follows:

TITLE

1. This by-law may be cited as the Residential Properties Standards By-law.

INTERPRETATION

2. In this by-law:
  - (a) **"Council"** means the Council of the Town of Grand Bay-Westfield;
  - (b) **"dwelling"** means a building any part of which is used or is intended to be used for the purposes of human occupation, whether or not the building is in such state of repair so as to be unfit for such purpose;
  - (c) **"dwelling unit"** means one or more rooms located within a dwelling and used or intended to be used for human habitation, whether or not the building is in such state of repair so as to be unfit for such purpose;
  - (d) **"Notice"** means a notice under Section 7;
  - (e) **"owner"** means any person entitled to any freehold or other estate or interest in land, at law or in equity, in possession, or in futurity or expectancy, such as a mortgagee, mortgagor, lessee under lease, tenant, occupier, licence, permittee or any other person having care, control, domain, and management over the premises or who receives any rent or pays municipal taxes in respect thereof; and includes the person for the time being managing or receiving the rent for premises or a building or structure, whether on the person's own account or as agent or trustee of any other person, or who would receive the rent if the premises, building or structure were let;

- (f) **"Property"** means residential property; and includes premises or building or structure;
- (g) **"Town Manager"** means the Town Manager of the Town of Grand Bay-Westfield.

### SCOPE

- 3. The purpose of this by-law is:
  - (a) to establish minimum standards to govern the condition, occupancy, and maintenance of residential properties; and
  - (b) to provide safeguards for the safety, health, and welfare of occupants and users of residential properties by requiring owners thereof to repair and maintain such property in accordance with established minimum standards.
- 4. New Brunswick Regulation 84-86, The Residential Properties Maintenance and Occupancy Code Approval Regulation-*Municipalities Act*, as set forth in Schedule "A" hereto (hereinafter called the Code), forms part of this by-law.

### DUTIES OF THE BUILDING INSPECTOR

- 5. The Building Inspector is hereby designated as the officer responsible for the administration and enforcement of this by-law and shall exercise such powers and perform such duties as are provided for the enforcement of this by-law.

### DUTY OF OWNER

- 6. The owner of residential property shall:
  - (a) repair and maintain such property in accordance with standards set out in the Code; and

- (b) where a notice pursuant to section 7 of this by-law has been served on the owner, repair such property as delineated in the notice within the time limit prescribed therein.

### NOTICES

7. Where a property is found to be in violation of the Code, the Building Inspector may notify the owner or occupier of the property by notice which shall:

- (a) be in writing;
- (b) be signed by the Building Inspector;
- (c) state that the property does not comply with the Code;
- (d) state what must be done to comply with the Code;
- (e) state the date before which the condition must be corrected;
- (f) if an appeal may be brought under section 9, state the final date for giving notice of the appeal.

7.1 A notice referred to in section 7 shall be given:

- (a) if the person to be notified is an individual, by personal delivery on the individual or by posting the notice in a conspicuous place on the property, or
- (b) if the person to be notified is a corporation, by personal delivery on an officer, director or agent of the corporation or on a manager or person who appears to be in control of any office or other place of business where the corporation carries on business in New Brunswick or by posting the notice in a conspicuous place on the property.

- 8.(1) Proof of the giving of notice in either manner provided for in section 7.1 may be a certificate or an affidavit purporting to be signed by the Building Inspector, naming the person to whom notice was given and specifying the time, place and manner in which notice was given.
- (2) A document purporting to be a certificate under subsection (1) shall be
  - (a) admissible in evidence without proof of signature, and
  - (b) conclusive proof that the person named in the certificate received notice of the matters referred to in the certificate.
- (3) In any prosecution for a violation of any provision of this by-law, where proof of the giving of notice is made as prescribed under subsection (1), the burden of proving that one is not the person named in the certificate or affidavit shall be upon the person charged.
- (4) A notice given under section 7 and purporting to be signed by the Building Inspector shall be
  - (a) received in evidence by any court in the Province without proof of the signature,
  - (b) proof in the absence of evidence to the contrary of the facts stated in the notice, and
  - (c) in a prosecution for a violation of any provision of the by-law, proof in the absence of evidence to the contrary that the person named in the notice is the owner or occupier of the property in respect of which the notice was given.
9. (1) An owner or occupier of premises or a building or structure who has been given a notice under section 7, other than a notice prepared under section 11, and who is not satisfied with the terms or conditions set out in the notice may appeal to the appropriate committee of council by sending a notice of appeal by registered mail to the Clerk of the municipality within fourteen days after having been given the notice.

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- (2) A notice that is not appealed within the time referred to in subsection (1) shall be deemed to be confirmed.
- (3) On an appeal, the committee of council shall hold a hearing into the matter at which the owner bringing the appeal has a right to be heard and may be represented by counsel.
- (4) On an appeal, the committee of council may confirm, modify or rescind the notice or extend the time for complying with the notice.
- (5) The committee of council shall provide a copy of its decision to the owner of the property who brought the appeal within fourteen days after making its decision.
- (6) The owner or occupier provided with a copy of a decision under subsection (5) may appeal the decision to a judge of The Court of Queen's Bench of New Brunswick within fourteen days after the copy of the decision was provided to the owner on the grounds that:
  - (a) the procedure required to be followed by this by-law or the *Municipalities Act* was not followed, or
  - (b) the decision is patently unreasonable.
- (7) On the appeal, the judge of The Court of Queen's Bench of New Brunswick may confirm, modify or rescind the whole or any part of the decision of the committee of council, and the decision of the judge under this subsection is not subject to appeal.
- (8) A notice that is deemed to be confirmed under subsection (2) or that is confirmed or modified by the committee of council under subsection (4) or a judge of The Court of Queen's Bench of New Brunswick under subsection (7), as the case may be, shall be final and binding upon the owner who shall comply within the time and in the manner specified in the notice.
- (9) An appeal does not prevent a further notice from being given under section 7 or from being prepared and signed under section 12 in relation to a condition referred to in the notice that is the subject of the appeal if there has been a change in the condition.

- 9.2 (1) In this section “land registration office” means the registry office for a county or the land titles office for a land registration district.
- (2) A notice given under section 7 may be registered in the appropriate land registration office and, upon such registration, any subsequent owner of the premises, building or structure in respect of which the notice was given shall be deemed, for the purposes of sections 11 and 12, to have been given the notice on the day on which the notice was given under section 7.
- (3) For the purposes of registering a notice under subsection (2), section 44 of the *Registry Act* and section 55 of the *Land Titles Act* do not apply.
- (4) Within thirty days after the terms of the notice have been complied with or a debt due to a municipality under subsection 11(1) or 12(5) or due to the Minister of Finance under paragraph 15(4)(c), as the case may be, is discharged, the municipality shall provide a certificate in the form prescribed by the regulation to that effect to the person to whom the notice was given under section 7 or deemed to have been given under subsection (2), as the case may be, and the certificate shall operate as a discharge of the notice.
- (5) A person to whom a certificate is provided, under subsection (4) may register the certificate in the appropriate land registration office, and, upon registration of the certificate, the appropriate registrar of the land registration office may cancel registration of the notice in respect of which the certificate was provided.
10. (1) A person who fails to comply with the terms of a notice given under section 7 commits an offence punishable as follows:
- (a) where the person is leasing a dwelling or dwelling unit to another person and subject to subsections (2) and (3), the offence is punishable under Part II of the *Provincial Offences Procedures Act* as a category F offence;

- (b) in any other case, and subject to subsection (3), the minimum fine and the maximum fine that may be imposed are the minimum fine and the maximum fine that may be imposed as set by the *Provincial Offences Procedures Act* as a category D offence.
  
- (2) Notwithstanding subsection 56(6) of the *Provincial Offences Procedure Act*, where a person who is leasing a dwelling or dwelling unit to another person commits an offence under subsection (1) in relation to a notice given under section 7 with respect to the dwelling or dwelling unit, the minimum fine that may be imposed by a judge under that *Act* in respect of the offence shall be one thousand dollars.
  
- (3) Where an offence under subsection (1) continues for more than one day,
  - (a) if the offence was committed by a person in relation to notice given under section 7 with respect to a dwelling or dwelling unit the person is leasing to another person,
    - (i) the minimum fine that may be imposed is the sum of
      - (A) one thousand dollars, and
      - (B) 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, and
    - (ii) the maximum fine that may be imposed is the maximum fine set by the by the *Provincial Offences Procedure Act* for a category F offence multiplied by the number of days during which the offence continues, and
  - (b) in any other case,
    - (i) the minimum fine that may be imposed is the minimum fine set by the *Provincial Offences Procedures Act* for a category D offence multiplied by the number of days during which the offence continues, and

- (ii) the maximum fine that may be imposed is the maximum fine set by the *Provincial Offences Procedure Act* for a category D offence multiplied by the number of days during which the offence continues.
  - (4) The conviction of a person under this section does not operate as a bar to further prosecution for the continued neglect or failure on his or her part to comply with the provisions of this by-law and/or the Code.
- 11.(1) If a notice has been given under section 7, other than a notice prepared under section 12, and the owner or occupier does not comply with the notice, as deemed confirmed or as confirmed or modified by a committee of council or a judge within the time set out in the notice, the municipality may, rather than commencing proceedings in respect of the violation or in addition to doing so, cause the work set out in the notice to be carried out or have the building or structure demolished, and the cost of carrying out such work, including any related charge or fee, is chargeable to the owner or occupier and becomes a debt due to the municipality.
- (2) For the purpose of subsection (1), the Building Inspector and the employees of the municipality or other persons acting on behalf of the municipality may, at all reasonable times, enter upon the premises, building or structure in order to clean up or repair the premises or demolish the building or structure, as the case may be.
  - (3) A municipality or a person acting on its behalf is not liable to compensate an owner or occupier or any other person by reason of anything done by or on behalf of the municipality in the reasonable exercise of its powers under this section.
12. (1) In this section “emergency” includes a situation in which there is imminent danger to public safety or of serious harm to premises or to a building or structure.



- (2) If upon inspection of a property under section 102.1 of the *Municipalities Act*, the Building Inspector or other officer referred to in that section is satisfied that there is nonconformity with this by-law or the Code to such an extent as to pose an emergency, the officer may prepare and sign a notice referred to in section 7 requiring the owner or occupier of the premises, building or structure in respect of which the notice is prepared to immediately carry out work to terminate the danger.
- (3) After having prepared and signed a notice referred to in subsection (2), the officer may, either before or after the notice is given under section 7, take any measures necessary to terminate the danger giving rise to the emergency, and, for this purpose, the officer who prepared the notice and the employees of the municipality or other persons acting on behalf of the municipality may, at any time, enter upon the premises, building or structure in respect of which the notice was prepared.
- (4) A municipality or a person acting on its behalf is not liable to compensate an owner or any other person by reason of anything done by or on behalf of the municipality in the reasonable exercise of its powers under this section.
- (5) The cost of taking measures under subsection (3), including any related charge or fee, is chargeable to the owner or occupier and becomes a debt due to the municipality.
- (6) If the notice was not given before measures were taken to terminate the danger, the officer shall give a copy of the notice under section 7 as soon as possible after the measures have been taken, and the copy of the notice shall have attached to it a statement by the officer describing the measures taken by the municipality and providing details of the amount expended in taking such measures.
- (7) If the notice was given before the measures were taken, the officer shall give a copy of the statement mentioned in subsection (6) in the same manner as a notice is given under section 7 as soon as practicable after the measures have been taken.

- (8) No person shall refuse entry to or obstruct or interfere with an officer referred to in subsection 11(2) or 12(3) who under the authority of that subsection is entering or attempting to enter premises or a building or structure.
- (9) A person who violates or fails to comply with subsection (8) commits an offence that is, subject to subsections (10) and (11), punishable under Part II of the *Provincial Offences Procedure Act* as a category F offence.
- (10) Notwithstanding subsection 56(6) of the *Provincial Offences Procedure Act*, where a person who is leasing a dwelling or dwelling unit to another person commits an offence under subsection (9) in relation to the dwelling or dwelling unit, the minimum fine that may be imposed by a judge under that *Act* in respect of the offence shall be one thousand dollars.
- (11) Where an offence under subsection (9) continues for more than one day,
- (a) if the offence was committed in relation to a dwelling or dwelling unit by a person who is leasing the dwelling or dwelling unit to another person,
- (i) the minimum fine that may be imposed is the sum of
- (A) one thousand dollars, and
- (B) 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 after the first day, and
- (ii) the maximum fine that may be imposed is the maximum fine set by the *Provincial Offences Procedure Act* for a category F offence multiplied by the number of days during which the offence continues, and

- (b) in any other case,
  - (i) the minimum fine that may be imposed is the minimum fine set out by the *Provincial Offences Procedure Act* for a category F offence multiplied by the number of days during which the offence continues, and
  - (ii) the maximum fine that may be imposed is the maximum fine set by the *Provincial Offences Procedure Act* for a category F offence multiplied by the number of days during which the offence continues.
  
- 13. Upon the service of a ticket by a Building Inspector a person who:
  - (i) commits an offence under subsection 94.2(3) or 102.1(1.2) of the *Municipalities Act* may pay an amount of nine hundred dollars and upon such payment, the person is not liable to be prosecuted for the offence and
  - (ii) violates any provision of this By-law may pay an amount of two hundred dollars and upon such payment, the person is not liable to be prosecuted for the offence.
  
- 14.(1) Where the cost of carrying out work becomes a debt due to a municipality under sections 11 and 12, an officer of the municipality may issue a certificate stating the amount of the debt due and the name of the owner or occupier from whom the debt is due.
  - (2) A certificate issued under subsection (1) may be filed in The Court of Queen's Bench of New Brunswick and a certificate so filed shall be entered and recorded in the Court and when so entered and recorded may be enforced as a judgment obtained in the Court by the municipality against the person named in the certificate for a debt of the amount specified in the certificate.
  - (3) All reasonable costs and charges attendant upon the filing, entering and recording of a certificate under subsection (2) may be recovered as if the amount had been included in the certificate.

15.(1) The cost of carrying out work under subsection 11(1) or of taking measures under subsection 12(5), as the case may be, and all reasonable costs and charges attendant upon the filing, entering and recording of a certificate under section 12(2) shall, notwithstanding subsection 72(2) of the *Workers' Compensation Act* and until paid, form a lien upon the real property in respect of which the work is carried out or the measures are taken in priority to every claim, privilege, lien or other encumbrances, whenever created, subject only to taxes levied under the *Real Property Tax Act* and a special lien under subsection 189(10).

(2)(a) The lien in subsection (1) attaches when the work under subsection 11(1) is begun or the measures under subsection 12(3) are begun, as the case may be, and does not require registration or filing of any document or the giving of notice to any person to create or preserve it, and

(b) follows the real property to which it attaches into whose hands the real property comes.

(3) Any mortgagee, judgment creditor or other person having any claim, privilege, lien or other encumbrance upon or against the real property to which is attached a lien under subsection (1):

(a) may pay the amount of the lien;

(b) may add the amount to the person's mortgage, judgment or other security, and

(c) has the same rights and remedies for the amount as are contained in the person's security.

(4)(a) Where a debt due to a municipality under subsection 11(1) or 12(5) remains unpaid in whole or in part and the Minister of Finance is of the opinion that the municipality has made reasonable efforts to recover the unpaid amount, the Minister of Finance shall, if the municipality requests him or her to do so before December 31 in any year, pay to the municipality the following amounts at the same time as the first payment is made to the municipality under section 6 of the *Municipal Assistance Act* in the following year:

- (i) the unpaid amount of the debt; and
- (ii) interest on the unpaid amount of the debt
  - (A) calculated at the same rate as is applied in determining the amount of a penalty under subsection 10(3) of the *Real Property Act*, and
  - (B) accruing from the day the municipality completes the work or measures in respect of which the debt arose to the day the municipality makes a request under this subsection for payment in respect of the debt.
- (b) A municipality shall make a request under paragraph 4(a) by submitting to the Minister of Finance a statement of the expenditures of the municipality that gave rise to the debt.
- (c) Subject to paragraph 4(d) where a debt due to a municipality under subsection 11(1) or 12(5) in relation to work carried out or measures taken with respect to premises or a building or structure remains unpaid, in whole or in part, by the person liable to pay the debt and the Minister of Finance has made a payment under paragraph 4(a) in respect of the debt,
  - (i) any part of the debt that remains unpaid by the person liable to pay the debt becomes a debt due to the Minister of Finance, and
  - (ii) the Minister of Finance shall collect the following amounts from the owner of the premises, building or structure in the same manner that taxes on real property are collected under the *Real Property Tax Act*:
    - (A) Any part of the debt under subsection 11(1) or 12(5) that remains unpaid by the person liable to pay the debt; and
    - (B) interest on the unpaid part of the debt
      - calculated at the same rate as is applied in determining the amount of a penalty under subsection 10(3) of the *Real Property Tax Act*, and

- accruing from the day the municipality completes the work or measures in respect of which the debt arose to the day the municipality makes a request under subsection (1) for payment in respect of the debt,
- (d) Subject to paragraphs (e) and (f), section 7, section 10, except subsection 10(2), and sections 11, 12, 13, 14, 14.1, 15, 16, 19, 20, 24 and 25 of the *Real Property Tax Act* apply with the necessary modifications for the purposes of subsection (3).
- (e) Where the amounts referred to in paragraph 14(4)(c) remain unpaid, those amounts and any penalty added to them under paragraph 14(4)(d) constitute a lien on the real property in respect of which the work was carried out or the measures were taken, and the lien ranks equally with a lien under subsection 11(1) of the *Real Property Act*.
- (f) Where the real property is sold under any order of foreclosure, order for seizure and sale, execution or other legal process or a power of sale under a debenture or mortgage or under subsection 44(1) of the *Property Act*, the amount of a lien referred to in paragraph 14(4)(e) constitutes a charge on the proceeds that ranks equally with a charge under subsection 11(1) of the *Real Property Tax Act*.
16. A municipality shall not proceed to demolish a building or structure under paragraph 11(1) unless it has a report from an architect, an engineer, a building inspector or the Fire Marshall that the building or structure is dilapidated or structurally unsound and such report is proof in the absence of evidence to the contrary that the building or structure is dilapidated or structurally unsound.
17. A by-law entitled THE RESIDENTIAL PROPERTIES STANDARDS BY-LAW enacted on the 26<sup>th</sup> day of March, 2001 is hereby repealed.

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FIRST READING BY TITLE on this 13<sup>th</sup> day of November, 2012.

SECOND READING BY TITLE on this 13<sup>th</sup> day of November, 2012.

READING BY SECTION TITLES on this 26<sup>th</sup> day of November, 2012.

THIRD READING AND ENACTMENT on this 26<sup>th</sup> day of November, 2012

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Sandra Gautreau  
Town Manager (Clerk)

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Grace Losier  
Mayor

**seal**

**SCHEDULE "A"**

RESIDENTIAL PROPERTIES MAINTENANCE AND OCCUPANCY CODE

1. In this Code:
  - (a) "accessory building" means a building, fence or other structure, the use of which is incidental to the use of a dwelling and which is located in the yard around the dwelling;
  - (b) "dwelling" means a building, any part of which is used or is intended to be used for the purposes of human habitation, whether or not such building is in such state of disrepair as to be unfit for such purpose;
  - (c) "dwelling unit" means one or more rooms located within a dwelling and used or intended to be used for human habitation by one or more persons;
  - (d) "habitable room" means any room, other than a non-habitable room, in a dwelling unit;
  - (e) "Medical Health Officer" means a Medical Health Officer appointed under the *Health Act*, and includes a District Medical Health Officer;
  - (f) "non-habitable room" means any room or space in a dwelling used or intended to be used as a bathroom, toilet room, laundry, pantry, closet, recreation room, furnace room or other room or space for the service or maintenance of the dwelling intended for public use or access;
  - (g) "owner" means any person entitled to any freehold or other estate or interest in land, at law or in equity, in possession, or in futurity or expectancy, such as a mortgagee, mortgager, lessee under lease, tenant, occupant, licensee, permittee or any other person having care, control, domain, and management over the premises or who receives any rent or pays municipal taxes in respect thereof;



- (h) "repair" means to take the necessary action to bring residential property to the standards prescribed herein;
- (i) "residential property" means a dwelling with the yard around it and any accessory building in such yard;
- (j) "sewage" means water-carried waste from residential property, together with such ground, surface and storm waters as may be present;
- (k) "sewer system" means the municipal sanitary sewer system where available or, otherwise, a private sewage disposal system that meets requirements of regulations under the *Health Act*;
- (l) "standards" means the standards of physical condition and of occupancy prescribed herein for residential property; and
- (m) "yard" means the privately - or publicly - owned land around and appurtenant to the whole or any part of a dwelling which is used or capable of being used in connection with the dwelling.

### SCOPE

- 2. The purpose of this code is to establish standards:
  - (a) governing the condition, occupancy, and maintenance of residential property; and
  - (b) providing safeguards for the safety, health, and welfare of the general public and of occupants and users of residential property.

### ADMINISTRATION

- 3.(1) An officer appointed by a municipality to administer a by-law that adopts this code has the right to enter at all reasonable times upon any property within the municipality for the purpose of making any inspection that is necessary for the administration or enforcement of the by-law.

- (2) Where an officer mentioned in Subsection (1) is refused admittance to any property within the municipality, the Clerk may serve, or cause to be served, on the person having control of the property, a demand that the officer, named therein, be permitted to enter upon such property in accordance with Subsection (1).
- (3) Service may be effected under Subsection (2) by personal delivery to the person having control of the property or by depositing the demand in the mail in a prepaid registered envelope addressed to such person at his last known address.
- (4) The service of a demand by mail as provided for in Subsection (3) is deemed to be complete upon expiration of six (6) days after the deposit thereof in the mail.
- (5) Proof of service of a demand in either manner provided for in Subsection (3) may be given by a certificate purporting to be signed by the Clerk which sets forth the name of the person on whom such demand was made and the time, place, and manner of service thereof.
- (6) A document purporting to be a certificate of the Clerk made pursuant to Subsection (5) shall:
  - (a) be admissible in evidence without proof of the signature; and
  - (b) be conclusive proof that the demand was served on the person named in the certificate.

#### MAINTENANCE OF YARDS AND ACCESSORY BUILDINGS

4. A yard shall:
  - (a) be properly graded to ensure rapid drainage of storm water therefrom to prevent ponding therein or the entrance of water into a basement or cellar;
  - (b) be kept reasonably clean and free from rubbish or other debris and from objects, holes, excavations or other conditions that might create a health, fire or accident hazard; and

- (c) be maintained free of rag weed, poison ivy, poison sumac and other noxious plants.
- 5. (1) Sewage shall be discharged into a sewer system.
  - (2) Inadequately treated sewage shall not be discharged onto the surface of the ground, whether into a natural or artificial surface drainage system or otherwise.
- 6. Steps, walks, driveways, parking spaces, and similar areas of a yard shall be maintained so as to afford safe passage under normal use and weather conditions.
- 7. (1) Any accessory building shall be kept in good repair and free from any condition that constitutes or is apt to create a health, fire or accident hazard.
  - (2) The exterior of any accessory building shall be kept weather resistant through the use of appropriate weather resistant materials, including paint and other preservatives.
  - (3) Where an accessory building or any condition in a yard harbours noxious insects or rodents, all necessary steps shall be taken to eliminate them and to prevent their reappearance.
  - (4) Dangerous accumulations of snow or ice or both shall be removed from the roof of any accessory building.
  - (5) If an accessory building is not maintained in accordance with the standards mentioned in this section, it shall be removed from the yard.
- 8. (1) Every dwelling unit shall be provided with such receptacles as may be necessary to contain all garbage, rubbish, and ashes that accumulate therein or in the yard.
  - (2) Receptacles mentioned in Subsection (1) shall:
    - (a) be made of metal or plastic;

- (b) be made of watertight construction;
  - (c) be provided with a tight-fitting cover; and
  - (d) be maintained in a clean state.
- (3) Garbage, rubbish, and ashes shall be promptly stored in receptacles described in Subsection (2), and shall be removed therefrom in accordance with regulations of the municipality where applicable or, otherwise, at least once during each week.
- (4) Materials of an inflammable nature shall be safely stored or removed at once from the residential property.

**MAINTENANCE OF DWELLINGS AND DWELLING UNITS**

9. Every part of a dwelling shall be maintained in a structurally sound condition so as to be capable of sustaining safely its own weight and any additional weight that may be put on it through normal use.
10. (1) A foundation wall of a dwelling shall be maintained so as to prevent the entrance of moisture, insects, and rodents.
- (2) Without restricting the generality of subsection (1), maintenance mentioned therein includes shoring of the wall where necessary, installing subsoil drains at the footing, grouting masonry cracks, waterproofing the wall and joints, and using other suitable means of maintenance.
11. (1) An exterior wall of a dwelling and its components shall be maintained so as to prevent its deterioration as a result of weather and insects.
- (2) Without restricting the generality of Subsection (1), maintenance mentioned therein includes painting, restoring or repairing the wall, coping or flashing, waterproofing joints or the wall itself, installing or repairing termite shields, and using other suitable means of maintenance.

12. (1) A roof of a dwelling shall be maintained in a water-tight condition so as to prevent leakage into the dwelling.
- (2) Without restricting the generality of Subsection (1), maintenance mentioned therein includes repairing the roof and flashing, applying waterproof coatings, installing or repairing eavestrough and rain water piping and using other suitable means of maintenance.
- (3) Dangerous accumulations of snow or ice or both shall be removed from the roof of a dwelling.
13. (1) Windows, exterior doors and basement or cellar hatchways of a dwelling shall be maintained so as to prevent the entrance of wind and precipitation into the dwelling.
- (2) Without restricting the generality of Subsection (1), maintenance mentioned therein includes painting, renewing rotted or damaged doors, door frames, window frames, sashes and casing, refitting doors and windows, weather stripping, replacing defective door and window hardware, reglazing and using other suitable means of maintenance.
- 14.(1) An inside or outside stair, or a porch, shall be maintained so as to be free of holes, cracks, and any other condition they may constitute an accident hazard.
- (2) Without restricting the generality of Subsection (1), maintenance mentioned therein includes repairing or replacing:
- (a) treads or risers that show excessive wear or are broken, warped or loose; and
- (b) supporting structural members that are rotted or deteriorated.
- (3) On an open side of a stairway, balcony, landing or stairwell, a handrail or banister shall be installed so as to provide reasonable protection against accident or injury.

15. (1) Every chimney, smoke pipe, and flue servicing a dwelling shall be maintained so as to prevent gases from leaking into the dwelling.
- (2) Without restricting the generality of Subsection (1), maintenance mentioned therein includes cleaning the flue of obstructions, sealing open joints, repairing masonry and using other suitable means of maintenance.
- 16.(1) Every fireplace used or intended to be used in a dwelling for burning fuel in open fires shall be maintained so that adjacent combustible material and structural members will not be heated to unsafe temperatures.
- (2) Without limiting the generality of Subsection (1), maintenance mentioned therein includes securing connection to a chimney that complies with standards hereof, lining with fire-resistant material, repairing and relining, and installing, repairing and replacing the hearth.
17. (1) Every interior wall and ceiling in a dwelling shall be maintained so as to be free of large holes or cracks and loose plaster or other material, the collapse of which might cause injury.
- (2) Without restricting the generality of Subsection (1), maintenance mentioned therein includes repairing or filling holes and cracks and removing and replacing loose or defective sections.
- (3) The surface of a wall or ceiling mentioned in Subsection (1) shall be finished so as to be reasonably smooth, clean, tight and easily cleaned.
- 18.(1) Subject to Section 19, every floor in a dwelling shall be maintained so as to be free of loose, warped, protruding, broken or rotted boards that might cause an accident or admit rodents into the dwelling.

- (1) Without restricting the generality of Subsection (1), maintenance mentioned therein includes repairing or replacing floor boards and repairing, replacing or removing any floor covering that has become unduly worn or torn so that it retains dirt.
19. (1) A bathroom floor or toilet floor shall be maintained so as to be reasonably impervious to water and to permit easy cleaning.
- (2) Without restricting the generality of Subsection (1), maintenance mentioned therein includes installing, repairing, refinishing, and replacing the floor or floor covering so as to provide the waterproof and cleaning conditions required.
20. In addition to other standards pertaining thereto, every floor, wall, ceiling, furnishing, and fixture in a dwelling or dwelling unit shall be maintained in a clean and sanitary condition.
21. (1) A dwelling shall be kept free of rodents and insects at all times and methods used for exterminating rodents or insects or both shall conform to generally accepted practice.
- (2) A basement or cellar window used or intended to be used for ventilation, and any other opening in a basement or cellar that might let in rodents shall be screened with wire mesh or such other material as will effectively exclude rodents.
- (3) During the time of year when insects may enter a dwelling, each outside door shall be equipped with a self-closing device, and every opening that opens to outdoor space, used or intended to be used for ventilation, shall be appropriately screened with wire mesh or such other material as will effectively exclude insects.

STANDARDS OF FITNESS FOR OCCUPANCY

- 22.(1) Plumbing is not required to be contained in a dwelling or dwelling unit, but where it is so contained, it shall be connected to a sewer system in such manner as to discharge all wastes therefrom into such system.
- (2) All plumbing, whether a drain pipe, water pipe, water closet, connecting line to the sewer system, or other plumbing fixture, shall be maintained in good working order and free from leaks and defects.
- 23.(1) Where a dwelling contains plumbing, the following shall be supplied and maintained in good working order, connected to the sewer system and accessible to and available for each ten or fewer persons or family occupying the dwelling:
- (a) a toilet, served with cold running water;
  - (b) a wash basin, served with hot and cold running water; and
  - (c) a bathtub or shower, served with hot and cold running water.
- (2) Hot water mentioned in Subsection (1) shall be served at such temperature that it may be drawn from any tap at a temperature of not less than forty-four degrees Celsius.
- (3) Where a dwelling does not contain plumbing, toilet and bathroom facilities, it shall be supplied and maintained at a standard and in a manner which, in the opinion of a Medical Health Officer, does not constitute a health hazard and is not apt to create such hazard.
- (4) Where a toilet is required by Subsection (1), it shall be located within and accessible from within the dwelling.
- (5) Where a toilet or urinal is used by the occupants of more than one dwelling unit, the room in which it is located shall be accessible only from a common hall.



- (6) A toilet or urinal shall not be located within a room that is used for:
- (a) the preparation, cooking, storing or consumption of food; or
  - (b) sleeping purposes.
- (7) A wash basin served by running water draining into a sewer system shall be located in the room that contains a toilet or in an adjoining room.
24. In a dwelling which contains plumbing, each dwelling unit shall be supplied with hot and cold running water facilities, with a draining sink connected to the sewer system, a continuous supply of hot and cold running water and all such facilities shall be maintained in good working order.
- 25.(1) Every dwelling should be provided with a heating system capable of maintaining a room temperature of twenty-one degrees Celsius at 1.5 metres above floor level in all habitable rooms, bathrooms and toilet rooms when the temperature outside the dwelling is -30 degrees Celsius.
- (2) A heating system mentioned in Subsection (1) shall be maintained in good working condition so as to be capable of safely heating the dwelling to the required standard room temperature.
- (3) Where the temperature in a dwelling or dwelling unit is not controlled by the occupants thereof, such dwelling or dwelling unit shall be heated to twenty-one degrees Celsius during the hours between seven o'clock in the morning and eleven o'clock in the afternoon, during every day between the first day of September and the first day of June in the next year.
- (4) Notwithstanding Subsection (3), the temperature required thereby applies only during the hours specified and such temperature may be reduced and maintained at eighteen degrees Celsius during all other hours.

- (5) Without restricting the generality of Subsection (2), maintenance mentioned therein includes:
    - (a) keeping rigid connections between a chimney or flue and any heating equipment, including cooking equipment, that burns fuel;
    - (b) keeping rigid connections between equipment mentioned in paragraph (a) and its fuel supply line; and
    - (c) keeping equipment that is not mentioned in paragraph (a) and that burns gaseous fuel properly vented to a duct leading to an outdoor space.
  - (6) No gas appliance of any kind may be installed or maintained in working condition with a gas supply in a room used or intended to be used for sleeping purposes.
  - (7) No person may use a room for sleeping purposes, or permit its use for such purpose, if the room contains any type of gas appliance in working condition with a gas supply.
  - (8) Where a heating system or part of it or any auxiliary heating system burns solid or liquid fuel, a place or receptacle for storage of the fuel shall be provided and maintained in a convenient location and properly constructed so as to be free from fire or accident hazards.
- 26.(1) All electrical wiring, equipment, and appliances located or used in a dwelling shall be installed and maintained in good working order so as not to cause a fire or electrical shock hazard.
- (2) Without restricting the generality of Subsection (1), maintenance mentioned therein includes repairing or replacing defective wiring and equipment, installing additional circuits and any other repairs, alterations or installations required by or which may be required pursuant to regulation under the *Electrical Installation and Inspection Act*.

- (3) When the capacity of a circuit within a dwelling or dwelling unit is in full or nearly full use, as indicated by the amperage or wattage requirements shown on the appliance or appliances in use, a person shall not use an additional appliance so as to increase the use beyond the capacity of the circuit.
- 27.(1) In a dwelling unit in which the occupants prepare food for their own consumption, or are intended to or are permitted to so prepare food, a suitable and convenient receptacle for the storage of food, containing at least 0.4 cubic metres of space, shall be maintained in good repair and in a clean state.
- (2) Some part of the storage space mentioned in Subsection (1) shall be capable of sustaining a temperature low enough to preserve perishable foods for a reasonable time.
28. Every dwelling and each dwelling unit within it shall have a safe, continuous and unobstructed passage from the interior of the dwelling or dwelling unit to the outside of the dwelling at street or grade level.
- 29.(1) A source of light, such as a window, skylight, transparent or translucent panel, or a combination thereof, that faces directly on open space at least one metre wide and at least fifteen centimetres above the adjoining finished grade or above an adjoining roof, and that admits as much natural light as would be transmitted through clear glass equal in area to ten percent of the floor area of the room, shall be provided and maintained in good repair in every habitable room.
- (2) The open space opposite a source of light shall not be obstructed in any way and, if it is obstructed, the light source facing the open space so obstructed shall not be included in calculating the area of light source for the room.
- (3) Every bathroom and toilet room shall have a permanently installed artificial lighting fixture that shall be maintained in good working order.

- (4) Every stairway, hall, cellar and basement, and every laundry room, furnace room and similar non-habitable work room in a dwelling shall have adequate artificial light available at all times.
- 30.(1) Every habitable room, bathroom, and toilet room shall have adequate ventilation.
- (2) Where an aperture such as a window, skylight or louvre is used for ventilation, the aperture shall be maintained so as to be easily opened, kept open and closed.
- (3) Where a dwelling or dwelling unit is ventilated by a system of mechanical ventilation or air conditioning, the system shall be maintained in good working order.
- 30.(1) A non-habitable room shall not be used as a habitable room.
- (2) A dwelling unit shall have at least 9.3 square metres of habitable room floor area for each person resident therein.
- (3) Subject to Subsection (5), a habitable room used for sleeping purposes shall have a floor area of at least:
- (a) 5.6 square metres, if so used by only one person; and
- (b) 3.5 square metres per person, if so used by more than one person.
- (4) A habitable room shall be 2.2 metres in height over at least one half of the floor area.
- (5) For the purposes of computing a floor area under Subsection (3), any part of the floor under a ceiling that is less than 1.5 metres above the floor shall not be counted.