



**THE CORPORATION OF THE
TOWNSHIP OF ASHFIELD-COLBORNE-WAWANOSH**

BY-LAW NUMBER 30-2009

BEING A BY-LAW PRESCRIBE AND ENFORCE STANDARDS FOR THE
MAINTENANCE AND OCCUPANCY OF PROPERTY WITHIN THE
TOWNSHIP OF ASHFIELD-COLBORNE-WAWANOSH

WHEREAS s. 127 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended (the “*Municipal Act, 2001*”), states that a local municipality may:

- (a) require the owner or occupant of land to clean and clear the land, not including buildings, or to clear refuse or debris from the land, not including buildings;
- (b) regulate when and how matters required under clause (a) shall be done;
- (c) prohibit the depositing of refuse or debris on land without the consent of the owner or occupant of the land; and,
- (d) define “refuse” for the purpose of this section.

AND WHEREAS s. 133 of the *Municipal Act, 2001* states that a municipality that is responsible for the enforcement of the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended (the “Act”), may:

- (a) regulate in respect of the fortification of and protective elements applied to land in relation to the use of the land; and,
- (b) prohibit the excessive fortification of land or excessive protective elements being applied to land in relation to the use of the land.

AND WHEREAS s. 15.1(3) of the Act states that the Council of a municipality may pass a by-law to do the following things if an official plan that includes provisions relating to property conditions is in effect in the municipality or if the Council of the municipality has adopted a policy statement:

1. Prescribing standards for the maintenance and occupancy of property within the municipality or within any defined area or areas and for prohibiting the occupancy or use of such property that does not conform with the standards.
2. Requiring property that does not conform with the standards to be repaired and maintained to conform with the standards or the site to be cleared of all buildings, structures, debris or refuse and left in graded and leveled condition.

NOW THEREFORE the Council of The Corporation of the Township of Ashfield-Colborne-Wawanosh, pursuant to its authority under s. 15.1 of the *Building Code Act, 1992*, S.O. 1992, c. 23, enacts as follows:

Definitions

1. In this by-law:

“Act” means the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended;

“building” means:

- (a) a structure occupying an area greater than ten square metres consisting of a wall, roof and floor or any of them or a structural system serving the function thereof including all plumbing, works, fixtures and service systems appurtenant thereto;
- (b) a structure occupying an area of ten square metres or less that contains plumbing, including the plumbing appurtenant thereto;
- (c) plumbing not located in a structure;
- (d) a sewage system; or,
- (e) structures designated in the building code;

“Chief Building Official” or “CBO” means a chief building official appointed or constituted under section 3 or 4 of the Act;

“Code” means the *Building Code*, Ontario Regulation 350/06, as amended, or other regulations made under s. 34 of the Act;

“Committee” means a Property Standards Committee established under section 15.6 of the Act;

“Council” means the municipal Council of the Township;

“demolish” means to do anything in the removal of a building or any material part thereof and “demolition” has a corresponding meaning;

“ground cover” means organic or non-organic material applied to prevent soil erosion such as concrete, flagstone, gravel, asphalt, grass or other landscaping;

“*Highway Traffic Act*” means the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended;

“Municipal Law Enforcement Officer” means a person appointed by the Township under s. 15 of the *Police Services Act*, R.S.O. 1990, c. P.15;

“occupant” means any person or persons over the age of 18 years in possession of the property;

“Officer” means the Chief Building Official, a property standards officer who has been assigned the responsibility of administering and enforcing this by-law, or a Municipal Law Enforcement Officer;

“owner” includes:

- (a) the registered owner of the property;
- (b) 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 receive the rent if the land and premises were let; and,
- (c) 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 property;

“pests” means rodents, vermin or insects;

“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 vacant property;

“refuse” means any article or thing that:

- (a) has been cast aside, discarded or abandoned, whether of any value or not;
- (b) has been used up, in whole or in part, whether of any value or not; or,
- (c) expended or worn out, in whole or in part, whether of any value or not.

“repair” includes the provision of facilities, the making of additions or alterations or the taking of any other action that may be required to ensure that a property conforms with the standards established in this by-law;

“Township” means The Corporation of the Township of Ashfield-Colborne-Wawanosh; and,

“yard” means that portion of a property which is not occupied by a building.

“Zoning By-Law” means a by-law passed by Council under the provisions of s. 34 of the *Planning Act*, R.S.O., 1990, c. P.13, as amended.

Short Title

- 2. This by-law may be cited as the “Property Standards By-Law”.

Application

- 3. The provisions of this by-law shall apply to all property within the Township, except those properties which fall under one of the following zones:

- (a) General Agricultural Zone (AG1);
- (b) Agriculture – Commercial Scale Wind Energy Facility (AG2);
- (c) Agricultural Commercial/Industrial Zone (AG3); and,
- (d) Agricultural Small Holding Zone (AG4);

in accordance with the Township’s Zoning By-Law.

General Duty

4. All owners shall maintain their property in accordance with the standards set out in this by-law.

Yards

5. All yards shall be kept in a neat, tidy and safe condition, free from:
 - (a) refuse, rubbish, garbage, waste, litter, dead animals or debris;
 - (b) an infestation of pests;
 - (c) objects and conditions that might create a health, fire or accident hazard;
 - (d) heavy undergrowth and noxious plants, such as ragweed, poison ivy, poison oak, and weeds, grass and/or vegetation more than 20 cm (8 inches) in height;
 - (e) furniture, excluding furniture meant to be outdoors;
 - (f) appliances, such as stoves or refrigerators;
 - (g) any motor vehicle which is not operative or which is not licensed with a currently validated license plate pursuant to the provision of the *Highway Traffic Act*; discarded motor vehicles; automotive parts; vehicle parts and accessories; mechanical parts; unmounted tires; tires on rims; accessories or adjuncts to a vehicle; and mechanical equipment or any boat, trailer or part of any boat or trailer, which is in a wrecked, discarded, dismantled, partly dismantled, or abandoned condition;
 - (h) mechanical parts or equipment;
 - (i) building materials which have been unused for more than ninety (90) days; or,
 - (j) dilapidated or collapsed structures, any unprotected well or old undergrowth tanks.

Landscaping

6. Hedges, planting, trees or other landscaping required by the Township as a condition of site development or redevelopment shall be maintained in a suitable and living condition or shall be replaced with equivalent landscaping so as to carry out its intended function and maintain an attractive appearance.
7. All properties shall have suitable ground cover to prevent soil erosion.

Fortifications

8. No property shall be excessively fortified or have excessive protective elements, which includes surveillance equipment, in relation to the use of the property.

Drainage

9. All exterior areas of a property shall be graded and maintained in such a manner so as to prevent the excessive or recurrent ponding of stormwater thereon.
10. No stormwater, roof or sump pump drainage shall be discharged on any portion of a property used for vehicular or pedestrian traffic or onto a neighbouring property.

Powers of Entry

11. An Officer may, upon producing proper identification, enter upon any property at any reasonable time without a warrant for the purpose of inspecting the property to determine:
 - (a) whether the property conforms with the standards prescribed in this by-law; or
 - (b) whether an order made under the Act has been complied with.

12. For the purposes of an inspection, and in accordance with s. 15.8 of the Act, an Officer may:
 - (a) require the production for inspection of documents or things, including drawings or specifications, that may be relevant to the property or any part thereof;
 - (b) inspect and remove documents or things relevant to the property or part thereof for the purpose of making copies or extracts;
 - (c) require information from any person concerning a matter related to a property or part thereof;
 - (d) be accompanied by a person who has special or expert knowledge in relation to a property or part thereof;
 - (e) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection; and,
 - (f) order the owner of the property to take and supply at the owner's expense such tests and samples as are specified in the order.

Order

13. An Officer who finds that a property does not conform with any of the standards prescribed in this by-law may make an order:
 - (a) stating the municipal address or the legal description of the property;
 - (b) giving reasonable particulars of the repairs to be made or stating that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and leveled condition;
 - (c) indicating the time for complying with the terms and conditions of the order and giving notice that, if the repair or clearance is not carried out within that time, the municipality may carry out the repair or clearance at the owner's expense; and,
 - (d) indicating the final date for giving notice of appeal from the order (an "Order").

14. An Order shall be served on the owner of the property and such other persons affected by it, as the Officer determines, and a copy of the Order may be posted on the property.

15. An Order may be registered in the proper land registry office and, upon such registration, any person acquiring any interest in the land subsequent to the registration of the Order shall be deemed to have been served with the Order on the day on which the Order was served and, when the requirements of the Order have been satisfied, the Administrator/Clerk-Treasurer of the Township 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.

Failure to Comply with Order

16. If an Order is not complied with in accordance with the Order as deemed confirmed or as confirmed or modified by the Committee or a Judge, the Township may cause the property to be repaired, cleaned, cleared up or demolished, as the case may be.
17. For the purpose of s. 16, employees or agents of the Township may enter the property at any reasonable time, without a warrant, in order to repair or demolish the property.
18. The Township or a person acting on its behalf is not liable to compensate the owner, occupant or any other person by reason of anything done by or on behalf of the Township in the reasonable exercise of its powers under s. 16.
19. The Township shall have a lien on the land for the amount spent on the repair, cleaning, clearing or demolition under s. 16 and the amount shall have priority lien status as described in s.1 of the *Municipal Act, 2001*.

Certificate of Compliance

20. An Officer who, after inspecting a property, is of the opinion that the property is in compliance with the standards established by this by-law may issue a certificate of compliance to the owner.
21. If a property is in compliance pursuant to s. 20 of this by-law, an Officer shall issue a certificate of compliance to an owner who requests one and who pays the fee set by Council.

Property Standards Committee

22. A Committee is hereby established to hear appeals of Orders, in accordance with s. 15.3 of the Act.
23. The Committee shall be composed of such persons, not fewer than three, as Council considers advisable.
24. The members of the Committee shall hold office for three (3) years, with one term expiring annually so that the first appointments shall be for one, two and three years. When a vacancy occurs in the membership of the Committee, Council shall forthwith fill the vacancy.
25. The members of the Committee shall be paid such compensation as the Council may provide.
26. The members of the Committee shall elect a Chair from among themselves. When the Chair is absent through illness or otherwise, the Committee may appoint another member as acting Chair.
27. A majority of the members of the Committee constitutes a quorum for transacting the Committee's business.
28. The members of the Committee shall provide for a Secretary for the Committee.
29. The Secretary of the Committee shall keep on file the records of all official business of the Committee, including records of all applications and minutes of all decisions respecting those applications.

30. The Committee may adopt its own rules of procedure and any member of the Committee may administer oaths.
31. The Committee shall give notice or direct that notice be given of the hearing of an appeal to such persons as the committee considers advisable.

Enforcement

32. This by-law may be enforced by an Officer.

Offence

33. Every person who contravenes any of the provisions of this by-law is guilty of an offence and, on conviction, is liable to a fine pursuant to the *Provincial Offences Act*, R.S.O. 1990, c.P.33, as amended.

Severability

34. If a Court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of this by-law and it is hereby declared that the remainder of this by-law shall be valid and shall remain in full force and effect.

Repeal

35. By-law No. 21-2007 and all by-laws amending the same are hereby repealed.

Effective Date

36. This by-law shall come into force on the date of its passage by Council.

Read a FIRST and SECOND time this 16th day of June 2009.

Read a THIRD TIME and FINALLY PASSED this 16th day of June 2009.

Original signed by
Ben VanDiepenbeek, Reeve

Original signed by
Administrator/Clerk-Treasurer, Mark Becker