

THE CORPORATION OF THE MUNICIPALITY OF KINCARDINE



BY-LAW

No. 2019 - 123

BEING A BY-LAW TO ESTABLISH STANDARDS FOR THE MAINTENANCE OF PROPERTIES, BUILDINGS AND YARDS IN THE MUNICIPALITY OF KINCARDINE

WHEREAS Section 11 of the Municipal Act, 2001, S.O. 2001, c.25, as amended provides that a municipality may pass by-laws respecting, inter alia, health, safety and the well-being of persons;

AND WHEREAS Section 15.1 (3) of the Building Code Act, 1992, S.O. 1992, c.23, as amended provides that a By-law may be passed by the Council of a municipality prescribing the Standards for the maintenance and occupancy of property within the municipality provided the Official Plan for the municipality includes provisions relating to property conditions;

WHEREAS there is in effect in the Municipality of Kincardine an Official Plan that includes provisions relating to Property Conditions;

AND WHEREAS the Building Code Act, S.O. 1992, c.23 Section 15.6(1) requires that a By-law passed under Section 15.1(3) shall provide for the establishment of a Property Standards Committee;

AND WHEREAS on June 21, 2006 Council passed By-law No. 2006-107, "Property Standards By-law" and have established a Property Standards Committee;

AND WHEREAS the Council of The Corporation of the Municipality of Kincardine deems it advisable to repeal By-law No. 2006-107 and replace it with a new by-law to establish standards for the maintenance of properties, buildings and yards in the Municipality of Kincardine under Section 15.1(3) of the Building Code Act, S.O. 1992, c. 23;

NOW THEREFORE, the Council of the Municipality of Kincardine hereby ENACTS as follows:

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**PART 1 -DEFINITIONS**

**1.01 DEFINITIONS**

**“Accessory Building”** - means a detached *building* or structure, not used for human habitation that is subordinate to the primary use of the same *property*.

**“Act”** - means an enactment or statute of the Province of Ontario.

**“Approved”** - means acceptance by the *Property Standards Officer*.

**“Basement”** - means that portion of a *building* between two floor levels, which is partly underground and which has at least one-half its height from finished floor to the underside of the first floor joists above the average finished grade level adjacent to the exterior walls of the building.

**“Building”** - means any structure used or intended to be used for supporting or sheltering any use or occupancy.

**“Building Code”** - means the *Building Code Act*, R.S.O. 1990 c. C. ~, as amended, and any regulations made under that *Act*.

**“Chief Building Official”** - means the Chief Official appointed by the Corporation under Section 3 of the *Building Code Act*, 1992, c. 23 and having jurisdiction for the enforcement thereof.

**“Code”** - means a regulation of the Province of Ontario known,  
a) With respect to matters relating to building, as the *Building Code*;  
b) With respect to matters relating to electricity, as the *Electrical Safety Code* and *Electrical Safety Authority*;  
c) With respect to matters relating to fire, as the *Fire Code*; and

**“Committee”** - means the *committee* referred to in Section 15.6 of the *Building Code Act*, 1992, S.O. 1992, c. 23 as amended to hear appeals of *property standards orders* issued under this By-Law.

**“Council”** - means the *Council* of the Municipality of Kincardine.

**“Dwelling”** - means a *building* or portion thereof or structure with kitchen facilities or a part of such a *building* or structure, which is, or is intended to be used for the purpose of human habitation.

**“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.

**“Exterior property area”** - means the building lot excluding *buildings*.

**“Fence”** – means any structure, wall or barrier, other than a *building*, erected at grade for the purpose of defining boundaries of *property*, separating open space, restricting ingress to or egress from *property*, providing security or protection to *property* or acting as a visual or acoustic screen.

**“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.

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

**“Guard”** - means a protective barrier with or without openings installed around openings in floor areas or on the open sides of a stairway, a landing, a balcony, a mezzanine, a gallery, a raised walkway, and other locations as required to prevent accidental falls from one level to another.

**“Habitable room”** - means any room in a *dwelling unit* used or designed to be used for the purpose of living, sleeping, eating, cooking or preparation of food and without limiting the foregoing shall include den, library, sunroom or recreational room or any combination thereof.

**“Non-habitable space”** - means a bathroom, toilet room, water closet compartment, laundry, pantry, foyer, lobby, hall, corridor, stairway, passageway, closet, storage room, boiler room, furnace room, accessory space for service, maintenance or access within a *building* or a room or space which does not comply with the minimum standards for residential occupancy.

**“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.

**“Occupant”** - means any person or persons over the age of eighteen years in possession of the *property*.

**“Officer”** - means a *Property Standards Officer* and/or a Municipal Law Enforcement *Officer* of the Municipality of Kincardine who has been appointed by the Corporation and assigned the responsibility of administering and enforcing this By-Law and includes the *Chief Building Official* or his or her designate.

**“Owner”** – includes the *owner* in trust; a mortgagee in possession; 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 his 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 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 *property*.

**“Person”** - means and includes any *person*, firm, partnership, corporation, company, association, or organization of any kind.

**“Property”** - means a *building* or structure or part of a *building* or structure, and includes the lands and premises appurtenant thereto and all outbuildings, *fences* and erections thereon whether heretofore or hereafter erected and includes vacant *property*.

**“Property Standards Officer”** - has the same meaning as *Officer*.

**“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 to the standards established in this By-law.

**“Safe condition”** - means a condition that does not pose or constitute an undue or unreasonable hazard or risk to life, limb or health of any *person* on or about the *property*, and includes a structurally sound condition.

**“Sewage system”** – means the Municipality of Kincardine *system* of storm sewers, sanitary sewers and combined sewers, or a private sewage disposal system approved by the *Chief Building Official* within the Municipality of Kincardine.

**“Sign”** - means any device or notice, including its structure and other component parts, which is used or capable of being used to identify, describe, illustrate advertise or direct attention to any *person*, business, service, commodity or use.

**“Snow disposal site”** -means only those lands on which snow is placed after being brought to the lot from another lot, and shall not include areas to which snow is moved to one portion of a lot after being cleared from the rest of the lot.

**“Snow storage site”** - means that portion of lands being used for the storage of snow that has been moved to one portion of a lot after being cleared from another portion or portions of a lot.

**“Municipality”** - means The Corporation of the Municipality of Kincardine unless the context requires otherwise.

**“Visual barrier”** –means a continuous, uninterrupted structure and/or *fence* which completely blocks lines of sight when viewed perpendicularly from either of its sides and shall consist of one or more of the following materials: wood, stone, bricks, mortar, fabricated metal or other similarly solid material *approved* by the *Property Standards Officer* or *Chief Building Official*.

**“Waste”** - means garbage, refuse and other *waste* materials generated from domestic household sources and similar uses, approved for disposal by the Ministry of the Environment and Energy and the *Municipal Council*, at the Municipal Waste Disposal Site, and shall for the purpose of this definition include solid commercial, residential and non-hazardous solid industrial *waste*.

**“Yard”** - means the land around or appurtenant to the whole or any part of a residential or *non-residential property* and used or capable of being used in connection with the *property*.

## **PART 2 -GENERAL STANDARDS FOR ALL PROPERTY AND USES**

### **2.01. SCOPE**

**2.01.1.** No *owner* or *occupant* of *property* within the Municipality of Kincardine shall use, occupy, or allow, permit or acquiesce in the use or occupation of the

*property* unless such *property* conforms to the standards prescribed in this By-law;

**2.01.2.** The owner of any property which does not conform to the *standards* established in this By-law shall repair and *maintain* such property to conform to the *standards*, or shall clear the site of all buildings, structures, debris or refuse and leave it in a graded and levelled condition.

**2.01.3.** All *repairs* and maintenance of *property* shall be carried out with suitable and sufficient materials and in a manner accepted as good workmanship within the trades concerned;

**2.01.4.** All new construction or extensive *repairs* shall conform to the *Ontario Building Code*, where applicable;

**2.01.5.** This By-law does not apply so as to prevent a farm, meeting the definition of “agricultural operation” under the *Farming and Food Production Protection Act*, 1998, S.O. 1998, c. 1, from carrying out a normal farm practice as provided for and defined under that *Act*.

## **2.02. LOT GRADING - DRAINAGE**

**2.02.1.** All *yards* shall be provided and maintained with adequate surface water drainage, including suitable provisions for its disposal, without causing erosion, so as to prevent ponding or the entrance of water into a *basement* or crawlspace;

**2.02.2.** No roof, driveways or other surface drainage, and the drainage of water from swimming pools shall be discharged on an entranceway, walkway, sidewalk, stair, steps or adjacent *property*, or on to any highway, or in such a manner that it will penetrate or damage a *building*, structure or *property*;

**2.02.3.** All roof drainage shall be discharged onto the ground at least 1 metre (39 inches) from the *building* or structure, providing that it does not adversely affect adjacent properties, or cause erosion. Lot drainage shall be contained within the limits of the premises from which it originated until absorbed by the soil or drained to an approved swale or outlet.

**2.02.4** Surface conditions of walkways and driveways shall be installed and maintained in a safe condition with asphalt, concrete or other hard surfaces suitable for their intended use.

## **2.03. SNOW DISPOSAL - STORAGE**

**2.03.1.** A *property owner* shall cause any *snow disposal site* or a *snow storage site* on that *property* to be:

- a) Maintained so as not to cause a hazard on the *property*; and
- b) Maintained in such a manner and location on a *property* so as to prevent a hazard, flooding, erosion and other damage to neighbouring private or public lands.

## **2.04. EXTERIOR LIGHTING**

**2.04.1.** Every stairway, exterior exit and entrance doorway, cellar, *basement* entrance or *building* entrance shall have a permanently installed lighting fixture that shall be maintained in good working order;

**2.04.2.** All parking and common areas shall be illuminated so as to provide safe passage;

**2.04.3.** Facilities for lighting shall be maintained in a good state of *repair*;

**2.04.4.** Outdoor lighting and indoor lighting that can be seen outdoors shall be placed and maintained, or have barriers or shades placed and maintained so as to prevent or block direct illumination of the interior of a *dwelling* on adjacent *property* regardless of whether such *dwelling* has or may have shades, drapes or other interior window coverings.

## **2.05. RETAINING WALL**

**2.05.1.** All retaining walls, screen walls and ornamental walls shall be constructed of durable material and shall be maintained in a structurally sound condition.

## **2.06. WELLS – CISTERN – CESSPOOL - PRIVY VAULT - PIT OR EXCAVATION**

**2.06.1.** A well, cistern, cesspool, privy vault, pit or excavation shall be permanently sealed, or secured by a *fence*, cover or netting, unless it is in active use, in which event it shall be secured by fencing with warning signs until the use has ceased, whereupon they shall be sealed or secured as required above.

## **2.07. ACCESSORY BUILDINGS**

**2.07.1.** The foundations, walls, roofs and all parts of *accessory buildings* and other structures appurtenant to the main *building* shall be:

- a) Constructed with suitable materials
- b) Maintained in good *repair*; and
- c) Protected from deterioration by the application of paint or other suitable protective material.

## **2.08. FENCE**

**2.08.1.** A *fence* erected on a *property* or separating adjoining properties shall be maintained:

- a) In good *repair*; (free from loose or insufficiently secured, rotten, warped or broken materials);
- b) In a safe and structurally sound condition so as to be capable of sustaining safely its own weight together with any load to which it might reasonably be subject to;
- c) Shall be free of dangerous objects; and
- d) Reasonably plumb, unless specifically designed to be other than vertical.

## **2.09. TOWER-GANTRIES-MASTS-ANTENNAE**

**2.09.1.** Towers, gantries, masts, antennae and structures of similar character and any attachment thereto shall be maintained:

- a) Reasonably plumb, unless specifically designed to be other than vertical;
- b) In good *repair*; and
- c) In a safe and structurally sound condition.

## **2.10 GARBAGE DISPOSAL**

**2.10.1** Every building, dwelling, and dwelling unit shall be provided with a sufficient number of suitable receptacles to contain all garbage, rubbish and ashes that may accumulate on the *property*. Such receptacles shall be constructed of watertight material, provided with a tight fitting cover, and shall be maintained in a clean and odor free condition at all times.

**2.10.2** All garbage, rubbish, and ashes shall be promptly placed in a suitable container and made available for removal.

**2.10.3** Garbage and rubbish shall not be permitted to accumulate and remain on any *property* to an extent or for a length of time so as to constitute a health or safety hazard.

**2.10.4** Garbage or rubbish stored on any *property* that emits an odor that is detectable within a dwelling on the same lot or within any *yard* on an adjoining *property* shall forthwith be removed.

**2.10.5** Plastic bags shall be considered acceptable receptacles under section 2.10.1 provided they are:

- a) Adequately secured so as to prevent spillage
- b) Not stored outdoors unless protected from access by animals or vermin and;
- c) Otherwise maintained in compliance with section 2.10

## **2.11 UNENCLOSED PORCH - BALCONY - CARPORTS**

**2.11.1** Every unenclosed porch or unenclosed balcony, and every exterior and common area shall be kept free of garbage, *waste*, or appliances.

**2.11.2** Every *owner* or *occupant* of a *property* shall not use a balcony except as per its universally intended and accepted use predominantly as outdoor living space;

**2.11.3** Every *owner* or *occupant* of a *property* that contains an unenclosed porch, balcony or carport shall maintain the unenclosed porch, balcony or carport free of accumulation of unsightly materials or objects;

- a) No *person* shall use a balcony for the storage or placement of *waste*,
- b) No *person* shall use a carport for storage of *waste*;
- c) No *person* shall use or store anything on a balcony in a manner to diminish the safety factor afforded by guardrails;
- d) No *person* shall use or store anything on a balcony or guardrail to present falling hazards to below.

## **PART 3 -BUILDINGS AND STRUCTURES**

### **3.01. STRUCTURAL ADEQUACY - CAPACITY**

**3.01.1.** Every part of a building shall be maintained in a sound condition so as to be capable of safely sustaining its own weight and any additional load to which it may be subjected through normal use, having a level of safety required by the Ontario Building Code. Structural members or materials that have been damaged or indicate evidence of deterioration shall be repaired or replaced. In addition to 3.01.2. The definition of "building" includes foundation walls, and other structural components.

**3.01.2.** Buildings shall be maintained so as to prevent the entry of moisture that would contribute to damage, fungus growth, decay or deterioration and shall be capable of safely and adequately performing its function subject to all reasonable serviceability requirement.

### **3.02. FOUNDATION WALLS - BASEMENTS**

**3.02.1.** All foundation walls and the *basement*, cellar or crawl space floors shall be maintained in good *repair* and structurally sound;



**3.02.2.** Every *basement*, cellar and crawl space in a *property* shall be maintained in a reasonably watertight condition so as to prevent the leakage of water into the *building*.

### **3.03. EXTERIOR WALLS – SURFACES - CLADDING-MASONRY**

**3.03.1.** All exterior walls and surfaces of every building or structure shall be

- a) Sound, plumb, and weather tight, free from loose or unsecured objects and maintained in good *repair*;
- b) In good *repair* free from cracked or broken masonry units, defective or deteriorated wood or metal siding, flashing or trim, cracked, broken or loose stucco, loose or unsecured objects; and
- c) Maintained by the painting, restoring or repairing of the walls, coping or flashing, by the waterproofing of joints and the walls themselves, by the installation of or repairing of weather tight finishing, or the installation of termite shields, if required.

**3.03.2.** All exterior surfaces that have previously been covered with paint or other protective or decorative materials shall be maintained in good *repair* and the covering renewed when it becomes damaged or deteriorated;

### **3.04. DOORS – WINDOWS – CELLAR - HATCHWAYS**

**3.04.1.** Windows, skylights, exterior doors and frames, *basement* or cellar hatchways, attic access doors including storm and screen doors and storm windows shall be maintained in good working order, good *repair*, in a *safe condition* and shall be of such construction so as to prevent the entrance of wind, snow or rain into the building and to minimize heat loss through infiltration;

**3.04.2.** At least one entrance door in every *dwelling unit* shall have hardware so as to be capable of being locked from inside and outside the *dwelling unit*;

**3.04.3.** All windows capable of being opened and all exterior doors shall have hardware so as to be capable of being locked or otherwise secured from inside the building;

**3.04.4.** All windows capable of being opened shall be equipped with a screen to prevent the passage of insects and the screen shall be maintained in a good condition.

**3.04.5.** Every window in a leased dwelling unit that is located above the first storey of a multiple dwelling shall be equipped with an approved safety device that would prevent any part of the window from opening greater than would permit the passage of a 100mm diameter sphere. Such safety device shall not prevent the window from being fully opened during an emergency situation.

### **3.05. WINDOW SCREENS**

**3.05.1.** When an exterior opening is used or required for ventilation or illumination and is not required to be protected by a door, window or similar closure, it shall be protected with:

- a) Mesh screening, metal grills, or other equivalent durable rust proof material; or
- b) Other protection so as to effectively prevent the entry of rodents, large insects or vermin.

### **3.06. CANOPIES – MARQUEES - AWNINGS**

**3.06.1.** All canopies, marquees and awnings shall be properly anchored so as to be kept in safe and sound condition and shall be protected from decay and rust by a periodic application of weather-coating material.

### **3.07. ROOF**

**3.07.1.** Every roof and all of its components shall be maintained in good *repair* and in a safe and structurally sound condition;

**3.07.2.** Without restricting the generality of this Section, such maintenance includes:

- a) Removal of loose, unsecured or rusted objects or materials;
- b) Removal of dangerous accumulations of snow or ice;
- c) Keeping roof and chimney in water-tight condition so as to prevent leakage of water into the building; and
- d) Keeping all roof-related structures plumb unless specifically designed to be other than vertical.

### **3.08. EAVESTROUGH SYSTEM- METAL DUCTS-FLASHING**

**3.08.1.** Metal eaves trough, roof gutter, rainwater pipe, downspouts, flashing and all exterior metal ducts shall be properly secured free from loose or unsecured objects, free from obstructions and health hazards, weather-tight, free of holes and maintained in good *repair*;

**3.08.2.** Metal eaves troughs, rainwater pipes, flashing and all exterior metal ducts shall be kept free from rust by application of a suitable protective material such as paint, and shall be renewed when necessary;

### **3.09. CHIMNEY FLUES**

**3.09.1.** Chimney, vent pipes, smoke stacks, flues, ducts and other similar equipment shall be constructed, installed and maintained free from obstruction and shall prevent:

- a) The entrance of smoke or gases into a building;
- b) The heating of adjacent combustible materials, walls and structural members to unsafe temperatures; and
- c) Fire, health or other hazards.

**3.09.2.** Any fuel burning heating equipment used in a building shall be properly vented to the exterior by means of an approved smoke pipe, vent pipe or chimney.

### **3.10. GARAGE – CARPORT**

**3.10.1.** The construction between an attached or built-in garage or carport and a *dwelling unit* shall provide an effective barrier to gas and exhaust fumes;

**3.10.2.** A door between an attached or built-in garage and a *dwelling unit* shall be tight-fitting and weather-stripped to provide an effective barrier against the passage of gases and exhaust fumes and shall be fitted with a self-closing device;

## **PART 4 -INTERIOR OF BUILDINGS AND STRUCTURES**

### **4.01. INTERIOR STRUCTURE-COLUMNS-BEAMS**

**4.01.1.** In every building, all structural components, including but not limited to all joists, beams, studding, and roof rafters, shall be of sound material and adequate for the load to which they are subjected.

#### **4.02. WALLS-CEILINGS**

**4.02.1.** All interior surfaces and finishes of walls and ceilings shall be maintained:

- a) In good *repair*, a surface which is reasonably smooth, clean, tight and easily cleaned;
- b) Free of holes, cracks, loose plaster or other material;
- c) In a *safe condition*; and
- d) So as to possess the fire resistant properties required by the Building and Fire Codes.

**4.02.2.** In any bathroom, the walls to a height of forty-two (42) inches above a bathtub equipped with a shower or six (6) feet above the floor of a shower stall, shall be maintained as to be water resistant and readily cleaned.

#### **4.03. FLOORS**

**4.03.1.** Every floor shall be smooth and level and maintained so as to be free of all loose, warped, protruding, broken or rotted boards that may create an unsafe condition or surface. Such defective floors shall be repaired or replaced;

**4.03.2.** Every bathroom, kitchen, laundry and shower room shall have a floor covering of water-resistant material and readily cleaned;

**4.03.3.** Every cellar and *basement* shall have a floor of concrete or other material acceptable under the provisions of the *Building Code*, to ensure water drainage and to guard against the entry of vermin.

#### **4.04. STAIRS – HANDRAILS - GUARDS**

**4.04.1.** Every inside or outside stair and every porch or landing appurtenant to it shall be maintained so as to be free of holes, cracks and other defects which constitute accident hazards;

**4.04.2.** All handrails and balustrades, stairways, fire escapes, balconies, landings and porches and similar appurtenances shall be maintained in good *repair* so as to be free of holes and other defects which constitute accident hazards, shall be properly anchored so as to be kept in a safe and secured condition, shall be structurally sound for the loads imposed through their normal use and, if metal, shall be protected from rust or similar decay by a periodic application of paint;

**4.04.3.** All handrails and balustrades, stairways, fire escapes, balconies, landings and porches and similar appurtenances shall be maintained in good *repair*, shall be properly anchored so as to be kept in a safe and secured condition, shall be structurally capable of supporting the loads imposed through their normal use and, if metal, shall be protected from rust or similar decay by a periodic application of a protective coating such as paint.

#### **4.05. ELEVATORS**

**4.05.1.** Elevating devices in a building, including all parts, lighting fixtures, lamps, elevator buttons, floor indicators and ventilation fans shall be maintained in good *repair* and operational;

**4.05.2.** All elevating devices including elevators, dumb-waiters, hoists, escalators, incline lifts and other elevating devices shall be installed and maintained:

- a) In good working order and good *repair*; and

b) In a *safe condition*.

#### **4.06. MEANS OF EGRESS**

**4.06.1.** Every building, structure or *dwelling unit* shall have a safe, continuous and unobstructed passage from the interior to an exit or the outside of the building at street or grade level;

**4.06.2.** Where a non-residential building contains *dwelling units* located at other than grade level, there shall be a means of continuous and unobstructed egress from such *dwelling units*;

#### **4.07. HEATING**

**4.07.1.** It is the responsibility of the *owner* that all heating and mechanical systems, and their components be installed, operational and maintained in good working order;

**4.07.2.** Only heating equipment approved for use by a recognized standards and testing authority shall be provided in a room used or intended for use for sleeping purposes;

**4.07.3.** Solid fuel burning appliances shall conform to the standards as set out in the *Building Code*. Fireplaces and similar construction used or capable of being used for burning fuels in open fires shall be connected to approved chimneys and shall be installed so as not to create a fire hazard to nearby or adjacent combustible materials and structural members;

**4.07.4.** If heating equipment burns solid or liquid fuel, a storage place or receptacle for the fuel shall be provided in a safe place and maintained in a *safe condition*;

**4.07.5.** Fuel-burning equipment shall be vented to a flue by means of rigid connections leading to a chimney or a vent or flue. All flues shall be kept clear of obstructions;

**4.07.6.** Every chimney, smoke pipe and flue shall be maintained so as to prevent gas from leaking into the *building*.

#### **4.08. AIR CONDITIONING**

**4.08.1.** Air conditioners shall be equipped with adequate devices for the prevention of condensation drainage onto entrance areas, sidewalks or pathways and shall be maintained in a safe mechanical and electrical condition;

**4.08.2.** Cooling water from water-cooled equipment shall not be discharged on driveways, walkways or other areas used for pedestrian or vehicular traffic, or in such manner that it may cause damage to the walls, foundations or other parts of a *building*;

**4.08.3.** The discharge of cooling water from all water-cooled equipment shall be made to a proper drainage system and shall be connected in accordance with all applicable governmental regulations.

#### **4.09. ELECTRICAL**

**4.09.1.** The connection to the *building* and the system of circuits and outlets distributing the electrical supply within the *building* shall provide adequate capacity for the use of the *building* and such connections, circuits, wiring and

outlets along with any fuses, circuit breakers and other appurtenances thereto shall be installed and maintained in good working order;

**4.09.2.** Extension cords are not permitted to be used in a building on a permanent basis as per the Ontario *Electrical Safety Code*.

#### **4.10. VENTILATION**

**4.10.1.** Ventilation shall be provided to and maintained and operated in all rooms and spaces within a *building* so as to prevent accumulations of heat, dust, fumes, gases, including carbon monoxide, vapours and other contaminants which may create a fire, explosion, toxic hazard or health hazard;

**4.10.2.** Every ventilation system shall be cleaned regularly and maintained in good working condition and good *repair*;

**4.10.3.** When an exterior opening is used or required for ventilation and is not required to be protected by a door, window or similar closure, it shall be protected with screens in accordance with this By-law;

**4.10.4.** An opening for natural ventilation may be omitted from a bathroom or toilet room where a system of mechanical ventilation has been provided;

**4.10.5.** Every *basement*, cellar, unheated crawl space and attic shall be vented and such vents shall be designed and maintained to prevent entry of snow, rain, rodents and insects;

#### **4.11. LIGHTING**

**4.11.1.** Every stairway, exterior exit and entrance doorway, bathroom, toilet room, kitchen, hall, cellar, *basement*, laundry, furnace room and *non-habitable* work room in a suite, *dwelling unit* or *building* shall have a permanently installed lighting fixture that shall be maintained in a *safe condition* and in good working order;

**4.11.2.** Lighting equipment shall be installed throughout every *property* to provide adequate illumination for the use of each space so as to provide safe passage.

#### **4.12. PLUMBING**

**4.12.1.** All plumbing, drain pipes, water pipes and plumbing fixtures in every *building* and every connecting line to the *sewage system* shall be maintained in good working order and free from leaks and defects and all water pipes and appurtenances thereto shall be protected from freezing;

**4.12.2.** Plumbing systems on a *property* shall be provided, installed and maintained:

- a) In compliance with the respective requirements of any applicable *Act* or By-law;
- b) In good working order and good *repair*; and
- c) In a *safe condition*.

**4.12.3.** All plumbing fixtures shall be connected to the *sewage system* through water seal traps.

#### **4.13. SEWAGE SYSTEM**

**4.13.1.** Every plumbing fixture in every *building* shall discharge the water, liquids or sewage into drainage piping, which shall be connected to a municipal *sewage system*, or a system approved by the authority having jurisdiction and in accordance with all applicable law;

**4.13.2.** Sewage or organic waste shall not be discharged to the surface of the ground, but into a *sewage system* where such system exists. Where a *sewage system* does not exist, sewage or organic waste shall be disposed of in a manner according to the *Ontario Building Code*;

**4.13.3.** The land in the vicinity of a *sewage system* shall be maintained in a condition that will not cause damage to, or impair the functioning of the *sewage system*.

#### **4.14. MOULD**

**4.14.1.** Any accumulation of mould shall be immediately cleaned and/or removed by the *owner* of a *building*;

**4.14.2.** No *person* shall occupy, or permit the occupancy of, a *building*, or portion thereof, where an accumulation of mould exists which could pose a health concern to any *person* who occupies the *building*, or portion thereof;

**4.14.3.** Any condition in a *building*, including but not limited to water penetration, humidity or inadequate ventilation, which may relate to the creation and growth of mould, shall be repaired or removed by the *owner* of the *building*;

**4.14.4.** Notwithstanding any other provision of this By-law, section 4.14(1) and 4.14(2) shall not apply if, in the opinion of a *Property Standards Officer*, the presence of mould is minor in nature and relates to general maintenance and/or lifestyle.

#### **4.15. INSULATION**

**4.15.1.** The insulation requirements of the *Ontario Building Code* as amended from time to time, shall be complied with where necessary and practical;

**4.15.2.** Every *dwelling* shall be provided with sufficient thermal insulation and vapour barrier to prevent moisture condensing on the interior surfaces of walls, ceilings and floors during the winter and to ensure comfortable conditions for the *occupants*.

### **PART 5 ADDITIONAL REQUIREMENTS FOR RESIDENTIAL OCCUPANCY**

#### **5.01. OCCUPANCY STANDARDS**

**5.01.1.** A *non-habitable* room shall not be used as a *habitable room*;

**5.01.2.** No kitchen shall be used as a bedroom;

**5.01.3.** The maximum number of *persons* residing in a *dwelling unit* shall not exceed two persons per bedroom;

**5.01.4.** The minimum dimension of any *habitable room* shall be 2 metres (6.5 feet);

**5.01.5.** The minimum area of a bedroom in a *dwelling unit* used by only one *person* shall be 7 square metres (75.3 square feet);

**5.01.6.** The minimum area of a bedroom in a *dwelling unit* used as a bedroom by two or more *persons* shall be 9.8 square metres (105.5 square feet);

**5.01.7.** Every *habitable room* shall have a ceiling height of at least 2.3 metres (7.5 feet) except the area of that part of the room where the ceiling height is less than

1.5 metres (4.9 feet) shall not be considered as part of the area of the room for the purpose of determining the maximum permissible occupancy thereof;

**5.01.8.** No *basement* or portion thereof shall be used as a *dwelling unit*, unless it meets the requirements of this by-law and the following conditions are met:

- a) Access to each *habitable room* shall be gained without passage through a furnace room, boiler room or storage room;
- c) Light, ventilation and ceiling height set out in this By-law and the *Building Code*;

## **5.02. TOILET AND BATHROOM FACILITIES**

**5.02.1.** Every *dwelling unit* shall contain plumbing fixtures in good *repair* and in an operative condition, consisting of a minimum of one toilet, one sink, and one bathtub or shower;

**5.02.2.** All bathrooms and toilet rooms shall be located within and be accessible from within the *dwelling unit*;

**5.02.3.** All bathrooms and toilet rooms shall be fully enclosed and maintained so as to provide privacy for the *occupant*;

**5.02.4.** No toilet or urinal shall be located within a bedroom or a room that is used for the preparation, cooking, storing or consumption of food.

## **5.03 FLOORS**

**5.03.1** Where a floor covering has become worn or torn so that it retains dirt or may create an unsafe condition, the floor covering shall be repaired or replaced;

## **5.04. STAIRS HANDRAILS GUARDS**

**5.04.1.** Handrails shall be installed and maintained in good *repair* on all exterior stairs that have more than 3 risers and on all interior stairs within *dwelling units* that have more than 2 risers;

## **5.05. HEATING**

**5.05.1.** Every residential *dwelling* shall have heating equipment capable of maintaining a temperature of 22°Celsius (70 °Fahrenheit) at the outside design temperature of -18 °Celsius;

**5.05.2.** No rental residential *dwelling unit* shall be equipped with portable heating equipment as the primary source of heat;

## **5.06. ELECTRICAL**

**5.06.1.** Every *dwelling* and *dwelling unit* shall be wired for electricity and shall be connected to an approved electrical supply system. An adequate supply of electrical power shall be available in all occupied parts of every *dwelling*, suite and *building*;

## **5.07. WATER SUPPLY**

**5.7.1.** Every *dwelling* and every *building* to which water is available under adequate pressure through piping shall be provided with:

- a) A supply of hot water not exceeding a temperature of 49 degrees Celsius, except for dishwashers and clothes washing, and maintained in all *dwelling units*;
- b) Piping for hot and cold water connected to every kitchen fixture, every washbasin, bathtub, shower, sink and laundry area; and
- c) Piping for cold water connected to every toilet and hose bib.

## 5.08 MEANS OF EGRESS

**5.08.1.** The passage required as egress from one *dwelling* unit shall not pass through any other *dwelling unit*;

**5.08.2.** In every multi-residential *dwelling* where a security locking-and-release system has been provided in the front or rear lobby for the entrance into the multiple *dwelling* and that system is controlled from each *dwelling unit*, such system shall be maintained in good *repair* and in an operating condition;

## 5.09 FIRE PROTECTION

**5.09.1.** Every dwelling shall be equipped with fire safety devices as required by the Ontario Fire Code.

**5.09.2** Smoke alarms shall be installed in

- a) Hallways serving bedrooms and;
- b) On each story if the dwelling

## PART 6 ADDITIONAL REQUIREMENTS FOR NON-RESIDENTIAL PROPERTY STANDARDS

### 6.01. MEANS OF EGRESS

**6.01.1.** All means of egress within a *non-residential property* shall be:

- a) Maintained free from all obstructions or impediments;
- b) provided with clear, unobstructed and readily visible exit *signs*, for every required exit;
- c) Provided with lighting facilities capable of illuminating the means of egress to; and
- d) Ensure the safe passage of persons exiting the *building*.

**6.01.2.** Where a non-residential building contains *dwelling units* located at other than grade level, there shall be a secondary means of continuous and unobstructed egress from such *dwelling units*;

**6.01.3.** All means of egress within a *non-residential property* shall be maintained free from all obstructions or impediments:

- a) Provided with clear, unobstructed and readily visible exit *signs*, for every required exit; and
- b) Provided with lighting facilities capable of illuminating the means of egress to ensure the safe passage of persons exiting the *building*.

### 6.02. GUARDRAILS

**6.02.1.** A *guard* shall be installed and maintained in good *repair* on the open side of any stairway or ramp containing three (3) or more risers including the landing or a height of 600 mm (24 inches) between adjacent levels. A handrail shall be installed and maintained in good *repair* in all stairwells. Guardrails shall be installed and maintained in good *repair* around all landings, porches, balconies but not at loading docks, at floor pits in *repair* garages or where access is provided for maintenance purposes. Guardrails, balustrades and handrails shall be constructed and maintained rigid in nature.

### 6.03. SEPARATIONS

**6.03.1.** Every *dwelling unit* shall be maintained and protected so as to prevent the passage of noxious fumes and gases from a part of the *building* that is not used for human habitation into other parts of the *dwelling unit*.



#### **6.04. VENTILATION**

**6.04.1.** All non-residential properties shall be adequately ventilated by natural or mechanical means and with regard to the operations carried on therein, to ensure that persons within the *property* are not exposed to conditions deleterious to their health or safety;

**6.04.2.** Ventilation shall be provided for every locker room, clothes drying room and room in which plumbing fixtures are installed, either by means of natural ventilation through openings directly to the outside air or by means of mechanical ventilation, which ventilation will ensure a complete change of air within the rooms at least once per hour;

**6.04.3.** Where a system of mechanical ventilation to exhaust noxious fumes, gases, dust or sawdust from a *building* is installed, the discharge from the system shall comply with all applicable regulations;

**6.04.4.** Mechanical ventilating equipment and the supports for each equipment shall be maintained in good *repair* and in safe mechanical condition.

#### **6.05. LIGHTING**

**6.05.1.** All non-residential establishments shall install and maintain sufficient windows, skylights, and lighting fixtures necessary for the safety of all persons attending the premises.

#### **6.06 GARBAGE DISPOSAL**

**6.06.1** Garbage storage areas in non-residential and multi-residential buildings shall be screened from public view.

### **PART 7 VACANT- DAMAGED-DEMOLITION**

#### **7.01. VACANT LAND**

**7.01.1.** Vacant land shall be graded, filled or otherwise drained so as to prevent recurrent ponding of water.

#### **7.02. VACANT BUILDINGS**

**7.02.1.** If any *building* is unoccupied, the *owner* or the agent shall protect every such *building* against the risk of fire, accident, or other hazard and shall effectively prevent the entrance thereto of all unauthorized persons;

**7.02.2.** If the normal locking of and other security measures for a building do not prevent entry, the owner or their agent of a vacant building shall board up the *building* to the satisfaction of the *Property Standards Officer* by covering all openings through which entry may be obtained with at least 12.7 mm (0.5 inch) weatherproof sheet plywood securely fastened to the *building* and painted a colour compatible with the surrounding walls;

**7.02.3.** If a *building* remains vacant for a period of more than ninety (90) days, the *owner* or agent thereof, shall ensure that all utilities serving the *building* are properly disconnected and secure the *building* to prevent accidental or malicious damage to the *building* or adjacent *property*. This provision shall not apply where such utilities are necessary for the safety or security of the *building*.

#### **7.03. DAMAGE BY FIRE-STORM-OTHER CAUSES**

**7.03.1.** In the event of fire or explosion, damaged or partially burned material shall be removed from the premises, except that such material may be temporarily stored within the barricaded damaged *building* or structure, provided that such storage does not exceed ninety (90) days;

**7.03.2.** Fire damaged *buildings*, or portions thereof, shall be repaired to their original condition or shall be demolished accordingly within 30 days or pending the completion of other agency investigations.

#### **7.04. DEMOLISH BUILDING**

**7.04.1.** Where a *building*, *accessory building*, *fence* or other structure is demolished, the *property* shall be cleared of all rubbish, *waste*, refuse, masonry, lumber, wood, and other materials and left in a graded and levelled condition;

**7.04.2.** Where a *building*, *accessory building*, *fence* or other structure is being demolished, every precaution shall be taken to protect the adjoining *property* and members of the public. The precautions to be taken include the erection of *fences*, barricades, covered walkways for pedestrians and any other means of protection necessary for the protection of the adjoining *property* and members of the public.

### **PART 8 ADMINISTRATION AND ENFORCEMENT**

#### **8.01. BY-LAW**

**8.01.1.** This By-law shall apply to all *property* within the limits of the Corporation of the Municipality of Kincardine.

#### **8.02. MEASUREMENT**

**8.02.1.** The imperial measurements contained in this By-law are given for reference only.

#### **8.03. ADMINISTRATION**

**8.03.1.** *Property Standards Officers* as appointed by *Council*, are hereby assigned the responsibility of administering and enforcing this By-law.

#### **8.04. AUTHORIZED ASSISTANT**

**8.04.1.** Any Grey/Bruce Health Inspector or Fire Prevention *Officer* of the municipality is hereby authorized and directed to act as an assistant to the *Property Standards Officer* from time to time.

#### **8.05. INSPECTION**

**8.05.1.** All officers shall possess all powers of inspection as prescribed in the *Ontario Building Code Act*.

#### **8.06. OBSTRUCTION**

**8.06.1.** Where an authorized *officer* has reasonable grounds to believe that an offence has been committed by a *person*, the authorized *officer* may require the name, address and proof of identity of that *person*, and the *person* shall supply the required information;

**8.06.2.** No *person* shall hinder or obstruct, or attempt to hinder or obstruct, an *Officer* in the exercise of a power or the performance of a duty under the By-law.

#### **8.07. ORDER TO REMEDY**

**8.07.1.** A *Property Standards Officer* who finds that a *property* does not conform to any of the standards prescribed in the By-law may make an Order:

- a) Stating the municipal address or the legal description of such *property*;
- b) Giving reasonable particulars of the repairs to be made or stating that the site is to be cleared of all *buildings*, structures, debris or refuse and left in a graded and levelled 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.

**8.07.2.** The 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*;

**8.07.3.** No *person* shall obstruct the visibility of an Order and no *person* shall remove a copy of any Order posted under this By-law unless authorized to do so by an *Officer*;

**8.07.4.** An Order required by this By-law to be served may be served personally or by registered mail sent to the last known address of the *person* to whom notice is to be given or to that person's agent for service;

**8.07.5.** If a Notice or Order is served by registered mail, the service shall be deemed to have been made on the fifth day after the day of mailing;

**8.07.6.** An Order may be registered on the *property* in the 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 subsection 8.07.2 and, when the requirements of the Order have been satisfied, the *Officer* shall forthwith register in the Land Registry Office a certificate that such requirements have been satisfied, which shall operate as a discharge of the Order.

## **8.08. APPEAL**

**8.08.1.** An *owner* or *occupant* who has been served with an Order made under subsection 8.07.1, and who is not satisfied with the terms or conditions of the Order may appeal to the Property Standards *Committee* by sending a Notice of Appeal by registered mail, to the Secretary of the Property Standards *Committee* within 14 days after being served the Order;

**8.08.2.** If an appeal is taken, the Property Standards *Committee* shall hear the appeal and shall have all the powers and functions of the *officer* who made the Order, and may:

- a) Confirm, modify or rescind the Order to demolish or *repair*; or
- b) Extend the time for complying with the order if, in the *Committee's* opinion, the general intent and purpose of the By-law is maintained.

## **8.09. POWER OF MUNICIPALITY TO REPAIR OR DEMOLISH**

**8.09.1.** If an Order of a *Property Standards Officer* under subsection 8.08.1 is not complied with in accordance with the Order as deemed confirmed or as confirmed or modified by the *Committee* or a Judge, the Municipality of Kincardine may cause the *property* to be repaired or demolished accordingly;

**8.09.2.** For the purpose of subsection 8.07.1, employees or agents of the Municipality of Kincardine may enter the *property* at any reasonable time without a warrant in order to *repair* or demolish the *property*;

**8.09.3.** The Municipality of Kincardine shall have a lien on the land for the amount spent on the *repair* or demolition and any fees outlined in the Municipal Rates and Fees By-law such amount shall be deemed to be municipal real property taxes and may be added to the collector's roll and collected in the same manner and with the same priorities as municipal real property taxes.

#### **8.10. EMERGENCY ORDER**

**8.10.1.** All officers shall possess all powers to issue emergency orders and invoke emergency powers pursuant to the *Ontario Building Code Act*.

**8.10.2.** A *Committee* to be known as the Property Standards *Committee* of the Municipality of Kincardine is hereby continued and the Property Standards *Committee* shall give Notice or direct that Notice be given to all interested parties.

#### **8.11. CERTIFICATE OF COMPLIANCE**

**8.11.1.** Every *owner* may request the *Officer* to provide a certificate of compliance in writing to the Corporation;

#### **8.12. PENALTY FOR NON-COMPLIANCE**

**8.12.1.** An *owner* who fails to comply with an Order that is final and binding under this By-law is guilty of an offence under *Section 36(1) of the Building Code Act*, S.O. 1992, c.23, and is liable to a penalty or penalties as set out in Section 36 of that *Act*;

**8.12.2.** If a conviction is entered, in addition to any other remedy and to any penalty imposed by this By-law, the court in which the conviction is entered, and any court of competent jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the *person* convicted on the same *property*.

#### **8.13. CONFLICTS-BY-LAWS-STANDARDS-REGULATIONS**

**8.13.1.** Where a provision of this By-law conflicts with the provisions of another By-law, *Act* Regulation in force within the municipality, the provision, which establishes the higher standards to protect the health, safety and welfare of the occupants and the general public, shall prevail.

#### **8.14. VALIDITY**

**8.14.1.** If a court of competent jurisdiction declares any provision, or any part of a provision, of this By-law to be invalid, or to be of no force and effect, it is the intention of the *Council* in enacting this By-law, that each and every other provision of this By-law authorized By-law, be applied and enforced in accordance with its terms to the extent possible according to law.

#### **8.15. SEVERABILITY**

**8.15.1.** It is hereby declared that each and every of the foregoing provisions of this By-law is severable and that, if any provisions of this By-law should, for any reason, be declared invalid by any Court, it is the intention and desire of this *Council* that each and every of the then remaining provisions hereof shall remain in full force and effect.

#### **8.16. TRANSITIONAL RULES**

**8.16.1.** After the date of the passing this By-law, By-law No. 2006-107, shall apply only to those properties in which an Order to Comply has been issued prior to the date of passing of this By-law, and then only to such properties until such time as the work required by such Order has been completed or any enforcement proceedings with respect to such Order, including any demolition, clearance, or *repair* carried out by the municipality shall have been concluded.

**8.17. TITLE**

**8.17.1.** That By-law No. 2006 – 107 be hereby repealed.

**8.17.2.** That this by-law shall come into full force and effect upon its final passage.

**8.17.3.** That this By-law shall remain in full force and effect until amended or repealed by the *Council* of The Corporation of the Municipality of Kincardine.

**8.17.4.** That this by-law may be cited as the “Property Standards By-law”.

**READ** a **FIRST** and **SECOND TIME** this 7<sup>th</sup> day of October, 2019.

**READ** a **THIRD TIME** and **FINALLY PASSED** this 7<sup>th</sup> day of October, 2019.

Original Signed By  
Mayor – Anne Eadie

Original Signed by  
Clerk – Donna MacDougall