

# THE CORPORATION TOWN OF MATTAWA

MOVED BY COUNCILLOR GARRY THIBERT

SECONDED BY DEPUTY MAYOR MATHEW GARDINER

**BE IT RESOLVED THAT** Council of the Corporation of the Town of Mattawa adopt By-Law Number 23-14 which is a by-law to establish the Property Standards Committee's Terms of Reference.

Recorded Vote – Yes \_\_\_ No

Recorded Vote Requested by:

	Yea	Nay
Mayor Bélanger	___	___
Councillor Gardiner	___	___
Councillor Sarrazin	___	___
Councillor Levesque	___	___
Councillor Mick	___	___
Councillor Ross	___	___
Councillor Thibert	___	___

*RA Bélanger*

MAYOR

Deferred \_\_\_ Tabled \_\_\_ Lost \_\_\_ Carried

Declaration of Pecuniary Interest:

Disclosed his/her/their interest(s), vacated he/her/their seat(s), abstained from discussion and did not vote

**THE CORPORATION OF THE TOWN OF MATTAWA**

**BY-LAW NUMBER 23-14**

**BEING** a by-law to establish the Property Standards Committee's Terms of Reference.

**WHEREAS** Subsection 15.1 (3) of the Building Code Act, 1992, S.O. 1992, c 23, as amended provides for Municipal Council to pass By-laws prescribing for 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;

**AND WHEREAS** pursuant to the Building Code Act, 1992, S.O. 1992, Chapter 23, as amended, Section 15.6 (1), authorizes municipal council to pass a by-law for the establishment of a Property Standards Committee;

**AND WHEREAS** Council deemed it necessary to establish a Property Standards Committee's Terms of Reference to identify the functional activities thereof and to define the responsibilities and duties of the Property Standards Committee.

**NOW THEREFORE**, the Council of the Corporation of the Town of Mattawa enacts as follows:

1. **THAT** Section 51 (4) of By-law Number 19-15 be hereby deleted in it's entirety and the following inserted in lieu thereof:

**"Section 51 (4):** The Terms of Reference attached hereto as Schedule "A" and forms part of this By-law"

2. **THAT** Schedule "A" can be amended by resolution.

3. **THAT** this By-law shall come into full force and effect on the day of the final passing.

READ A FIRST AND SECOND TIME, this 11<sup>th</sup> day of April, 2023.

READ A THIRD TIME AND FINALLY PASSED this 11<sup>th</sup> day of April, 2023.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Clerk



**TOWN OF MATTAWA  
PROPERTY STANDARDS COMMITTEE  
TERMS OF REFERENCE**

**PURPOSE**

The members of the Property Standards Committee are appointed by the Council of the Town of Mattawa to hear the appeal of any owner or occupant who has been served with an Order issued under the Property Standards By-law and who is not satisfied with the terms or conditions of the Order.

**POWERS OF THE COMMITTEE**

It is the duty of the members of the Property Standards Committee to hear all appeals and make a decision for each appeal. In accordance with Section 15 (3.1) of the *Building Code Act*, the Property Standards Committee may do any of the following things if, in the Committee's opinion, doing so would maintain the general intent and purpose of the Property Standards By-law and of the Official Plan of the Town of Mattawa: *confirm the Order to demolish or repair; modify the Order to demolish or repair; rescind the Order to demolish or repair; or extend the time for complying with the Order.*

**TERM OF THE COMMITTEE**

The term of the Committee shall be concurrent with the 4-year term of Council.

**MEMBERSHIP**

The membership of the Committee shall consist of five property owners within the Town of Mattawa. Council shall forthwith fill any vacancy that occurs in the membership of the committee. If advertising for community members fails to generate sufficient membership then Council may appoint individual Councillors to sit on the Committee.

**CHAIR OF THE COMMITTEE**

By consensus, the Committee shall appoint a Chairperson from among its members. If the Chairperson is absent, the Committee may appoint an Acting Chairperson from among the Committee members.

**HEARINGS**

The Property Standards Committee shall hold a hearing when an Appeal of a Property Standards Order is received by the Clerk. Hearings are confidential to protect the Appellant's right to privacy.

**QUORUM**

A quorum shall consist of a majority of the voting members appointed to the Committee. The Property Standards Committee shall not conduct business if a quorum is absent.

## **VOTING**

All decisions of the Committee shall be decided by a simple majority vote of the members present.

## **STAFF RESOURCES**

The By-law Enforcement Officer of the Town of Mattawa that issued the Order, shall attend hearings of the Property Standards Committee. The Clerk or designate shall attend hearings to serve as Committee Secretary.

## **DUTY OF BY-LAW ENFORCEMENT OFFICER**

For each hearing, the By-Law Enforcement Officer shall provide an information package that will be attached to each agenda. The information package shall contain:

- A copy of the Order;
- A report using the municipality's standard report format and stamped "confidential" that outlines why the Order was issued and provides details of the actions taken by the By-law Enforcement Officer to date;
- A map showing the location of the subject property in the municipality;
- A site map of the property identifying where the property standards issues are located;
- Colour photos of the property standards issues with each photo labelled for ease of reference. A PowerPoint presentation is recommended to be displayed at the hearing.

The Enforcement Officer shall attend all hearings of the Property Standards Committee. The Officer shall provide a verbal outline of why the Order was issued and shall answer the Committee's questions.

## **DUTY OF COMMITTEE SECRETARY**

A Committee Secretary being the Clerk or designate of the Town of Mattawa shall book hearings, secure a meeting room, circulate agendas, circulate decisions and minutes, attend hearings and transcribe minutes for circulation. In accordance with Section 15.6(7) of the *Building Code Act*: "the Committee Secretary shall keep on file the records of all official business of the Property Standards Committee, including records of all applications and minutes of all decisions respecting those applications. Requests from any member of the public, other than those circulated with minutes and decisions shall be handled under the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*."

## **CLOSED MEETINGS**

The Property Standards Committee is established under authority of the *Building Code Act*. It may deliberate in closed session but shall vote in the presence of the Appellant and the By-law Enforcement Officer.

## **COMMITTEE MAY RESERVE JUDGMENT**

If the Property Standards Committee is unable to come to a decision in the time

allotted for a hearing, it may reserve judgment and reconvene at a future date and time to be set by the Committee Secretary in consultation with the members of the Committee and the Appellant.

## **REMUNERATION**

Remuneration for the members at large shall consist of an annual honourarium of \$100.00 payable by December 31<sup>st</sup> of each year.

## **RULES OF PROCEDURE**

### **1. APPEAL PERIOD**

- 1.1 Orders issued by a Property Standards Officer pursuant to subsections 15.2 (2) and (3) of the Building Code Act may be served on the owner personally or by registered mail. Where service is by registered mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless it can be proven later.
- 1.2 The Appellant of the order has 14 days after being served the order to send a notice of appeal by registered mail or personal service to the Secretary.

### **2. REQUEST FOR HEARING**

- 2.1 An appeal to the Committee by an Appellant served with a Property Standards Order must be made by sending a Notice of Appeal by registered mail or personal service to the Secretary of the Committee by the last date for filing appeal set out in the Property Standards Order.
- 2.2 The Notice of Appeal shall include:
  - (a) A completed and signed Property Standards Committee Notice of Appeal Form that includes the following:
    - Address of property being appealed;
    - Property Standards Order issue date;
    - Property Standards Order compliance date;
    - Property Standards Order appeal deadline date;
    - The name of the person(s) (specifically, the property owner, occupant, agent, and/or representative) requesting the appeal and their address, telephone number, fax number, and email address;
    - The grounds and/or reason for appeal, including any documents and photographs supporting the grounds and/or reasons for the appeal;
    - An authorization to act as agent for notice of appeal (if applicable).
  - (b) A copy of the property Standards Order related to the appeal; and
  - (c) A non-refundable appeal fee prescribed by the Fees and Charges By-law, as amended made payable to the Town of Mattawa.
- 2.3 When a Notice of Appeal is received by the Secretary, he/she shall confirm that the notice was sent within the permitted appeal period. Late notices are

invalid and are disqualified.

- 2.4 The Secretary shall set the time and place of a hearing after consulting with the Committee members and the Appellant(s).
- 2.5 Once a date has been set for a hearing, it may not be adjourned except by notification of the Secretary. The reason for adjournment must be reasonable and justified.
- 2.6 Notice of hearing shall be sent by the Secretary in writing to all parties affected by the order at least 21 days in advance of the hearing.

### **3. FAILURE TO ATTEND**

- 3.1 Where a person is properly notified of a hearing and does not attend at the time and place appointed, the Committee may proceed in that person's absence and without further notice to that person.

### **4. FILING OF DOCUMENTS**

- 4.1 Filing of any document, excluding the request for the appeal may be affected by personal delivery, by ordinary or registered mail, or otherwise as the committee may order to the secretary.
- 4.2 Where a document is filed, the date of the receipt stamp on the document shall be deemed to be the date of filing, unless the committee orders otherwise.
- 4.3 Where the Committee or the Property Standards and Building departments have no record of the receipt of a document alleged to have been filed, the documents shall be deemed not to have been filed, unless the Committee orders otherwise.

### **5. FILE NUMBERING**

- 5.1 Hearings shall be numbered consecutively throughout the year. For example, PSO # 19-01, PSO # 19-02, etc. The Committee Secretary keeps all records and minutes for each hearing.

### **6. CONDUCT OF PROCEEDINGS**

- 6.1 Proceedings may be conducted in person only.
- 6.2 An in-person hearing shall be conducted in the following order of presentation unless the Chair directs otherwise:
  - (a) The Chair shall call the meeting to order after confirming a quorum of the Committee is present;
  - (b) The Chair shall explain to those in attendance at the hearing the format of the proceedings and the specific purpose of the hearing. The Chair should advise those present that the Committee will only be considering the compliance and non-compliance of a property or building with respect to the standards of the By-law, and the time granted for compliance. All

evidence should therefore be restricted to these matters. The hearing is not for determining the resolution of any landlord and tenant disputes;

- (c) The Chair shall solicit from those in attendance at the hearing any conflicts of pecuniary interest or other interest in any matter on the agenda for consideration;
  - (d) The Property Standards Officer may make an opening address and subject to clause (e), shall then adduce evidence;
  - (e) An Appellant may make an opening address immediately after the opening address of the Property Standards Officer and before the Property Standards Officer adduces any evidence;
  - (f) When the evidence being called on behalf of the Property Standards Officer is concluded, the Appellant may make an opening address, unless he or she has already done so pursuant to clause (e) and then adduce his or her evidence;
  - (g) When the presentation of the evidence of the Appellant is concluded, the Property Standards Officer may adduce any proper reply evidence;
  - (h) After all the evidence has been adduced by all parties to the proceeding, the Property Standards Officer may make a closing address, followed by the closing address of the Appellant, if he or she decides to do so; and
  - (i) Where there are two or more Appellants, the order of presentation shall be as directed by the Chair.
- 6.3 Unless these rules provide otherwise, witnesses at a proceeding shall be examined orally and the examination may consist of direct examination, cross-examination and re-examination.
- 6.4 The Committee shall ensure that there is no undue harassment or embarrassment of the witness as he or she is giving evidence and may disallow a question put to the witness that is vexatious or irrelevant to any matter that may be properly inquired into the proceeding.
- 6.5 The Committee may at any time during a proceeding direct that a witness be recalled for further examination.
- 6.6 Where a witness appears unwilling or unable to give answers to the questions being posed, the Committee may permit the party calling the witness to examine him or her by means of leading questions.

## **7. COMMITTEE DECISIONS**

- 7.1 Upon receiving all of the evidence, the Committee may adjourn (in camera) and make a decision, and upon their return make their decision known to the affected parties.
- 7.2 The Committee may decide:

- (a) To uphold the order in whole or in part, with no additional time granted for compliance;
  - (b) To uphold the order in whole or in part with additional with additional time granted for all or some of the deficiencies to be complied with;
  - (c) To remove any items from the order that already have been complied with, or have been determined to be invalid;
  - (d) To modify any items within the order in any manner seen fit by the Committee;
  - (e) To quash the order in whole or in part, based on any technical or procedural error;
  - (f) To defer a decision to a later date pending the receipt of additional information from any party to the hearing; or
  - (g) To reserve a decision to a later date pending further consideration by the Committee of the evidence submitted at the hearing, at which time the decision can be provided in writing to all parties to the hearing.
- 7.3 The Chair upon rendering the Committee's decision should inform the Appellant of their rights to appeal the decision of the Committee to a Judge of the Superior Court of Justice pursuant to the Building Code Act.
- 7.4 The Secretary shall prepare a written record of the hearing including minutes of the hearing and the decision (with conditions, if applicable).
- 7.5 The Secretary should arrange for the required signature(s) on the decision, prior to mailing it to the Appellant and providing a copy to the Property Standards Officer. The Chair shall sign the decision on behalf of the Committee members present at the hearing.
- 7.6 The Secretary shall send the decision to the Appellant by registered mail.

## **8. COMMITTEE AGENDAS AND MINUTES**

- 8.1 Property Standards Appeals are confidential. Public notice of hearings (i.e. an ad in the newspaper) is not given. Agendas with the attached information package are circulated by the Committee Secretary to the Property Standards Committee, the By-law Enforcement Officer that issued the Order, the Appellant and his or her agent.
- 8.2 The Committee Secretary transcribes minutes and submits them to the Committee Chairperson for review and approval within 5 days of the hearing. Decisions of the Committee are printed on Municipal letterhead and signed by the Committee Chairperson. The Committee Secretary circulates written decisions of the Property Standards Committee within five days of the date of the hearing. Minutes and decisions are circulated to the Property Standards Committee members, the By-law Enforcement Officer and Appellant.

## **9. CONFIRMED ORDERS**



- 9.1 An Order that has not been appealed, or that has been confirmed or modified by the Property Standards Committee or a judge, as the case may be, shall be final and binding upon the owner and occupant who shall carry out the repair or demolition within the time and in the manner specified in the Order. If an Order is not complied with as confirmed or modified by the Property Standards Committee or a judge, the By-law Enforcement Officer of the Town of Mattawa will cause the property to be repaired or demolished accordingly. Expenses relating to the repair or demolition will be invoiced to the property owner and, if left unpaid, will be added to the property owner's tax bill.

## **10. RIGHT TO APPEAL A COMMITTEE DECISION**

- 10.1 The Municipality or any owner or occupant or person affected by a decision under subsection 15.3(3.1) of the Building Code Act, may appeal to the Superior Court of Justice by notifying the Clerk of the Town of Mattawa in writing and applying to the court within fourteen (14) days after a copy of the decision is sent.