

TOWN OF CORNWALL
PROPERTY MAINTENANCE BYLAW

BYLAW NO. 221

BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF CORNWALL PURSUANT TO SECTIONS 96 AND 139 OF THE CHARLOTTETOWN AREA MUNICIPALITIES ACT, R.S.P.E.I. 1988, CAP. C-4.1, AS FOLLOWS:

I. Title and Scope

1. This bylaw may be cited as the “Cornwall Property Maintenance Bylaw”.
2. This bylaw is a bylaw to establish minimum levels of property maintenance in the Town and to regulate properties which are unsightly or pose a hazard or nuisance to the public and applies to all real property situate within the Town of Cornwall.

II. Definitions

3. In this bylaw:
 - (a) “Agricultural purposes” means the use of any land for the purpose of soil conversation, crop production, or raising of livestock.
 - (b) “Council” means the Town Council of the Town of Cornwall;
 - (c) “Dangerous Property” includes:
 - (i) a building where the walls or other vertical structure members list, lean or buckle to such an extent that it presents a danger to the occupants or other persons or property;
 - (ii) a building which shows clear damage or deterioration of the foundation supporting member or members;
 - (iii) a building which has improperly distributed loads upon the floor or roofs or structural supporting members or in which the same or overloaded, or

which has insufficient strength to be reasonably safe for the intended use or occupation;

- (iv) a Property which contains an uncapped well, open pit, excavation or foundation which has not been under active construction for a period of 30 days or more;
 - (v) a Property which contains any hazardous waste, refuse, derelict Vehicle, material, or any other condition or feature which could pose a hazard to the life, safety, health or welfare of the occupants or the general public.
- (d) “Dilapidated Building” includes a building that has:
- (i) deteriorated so as to substantially depreciate the value of the property in the vicinity; or
 - (ii) become a detriment to the general appearance of the Town.
- (e) “Inspector” means any person appointed by the Town of Cornwall for the purpose of enforcing this bylaw;
- (f) “Litter” means:
- (i) rubbish, refuse, garbage, waste materials, papers, packages, containers, bottles, cans or parts thereof; and
 - (ii) any product, machinery, mobile home or other item that is dumped, discarded, abandoned or otherwise disposed of;
- (g) “Notice” means a notice issued under this by-law;
- (h) “Owner” includes a part owner, joint tenant or tenant in common of the whole or any part of land or buildings and also includes a trustee, an executor, an administrator, a guardian or a mortgagee in possession, or the person having the care and control of any land or building in case of the absence or disability of the person having title thereto;
- (i) “Property” means a parcel of land or a building or structure or part of a building or structure, and includes the lands and premises appurtenant thereto and all mobile structures, mobile buildings, accessory buildings,

fences and erections thereon, whether heretofore or hereinafter erected, and includes vacant land, and is divided as follows:

- (i) “Residential Property” means property that is occupied or that is capable of being occupied for the purpose of human habitation;
- (ii) “Non-Residential Property” means property which is not occupied for the purpose of human habitation, and includes property that is used for commercial, industrial or institutional use or for Agricultural Purposes; and
- (iii) “Vacant Property” means property that is unoccupied or property on which there are no structures;
- (j) “Town” means the Town of Cornwall;
- (k) “Unsightly Property” means any real property, or part thereof, upon which there is Litter, Dilapidated Building(s), Vehicle(s) or parts thereof that causes the Property or any part thereof to look unsightly;
- (l) “Vehicle” includes any motor vehicle, trailer, boat, motorized snow vehicle, mechanical equipment and any vehicle drawn, propelled or driven by any kind of power, including muscular power.

III. Residential Property Standards

- 4. No Owner of a Residential Property shall cause or permit such property to become an Unsightly or Dangerous Property.
- 5. Every part of a building or structure shall be maintained in a structurally sound condition so as to be capable of safely sustaining its own weight and any normal load of weight to which it may be subject.
- 6. On any building or structure, the exterior and its components shall be maintained so as to prevent deterioration due to weather or insects, and shall be so maintained by painting, restoring or repairing of the walls, coping or flashing, and the waterproofing of joints and the walls themselves.
- 7. All lands shall be covered by grass and may contain hedges, shrubs, trees, flowers or other plants.

8. No Owner shall permit a grassed area to grow beyond the height of six inches (6").
9. Any tree that poses an imminent danger due to storm damage, disease or any other condition shall be repaired or removed so as to eliminate the danger.
10. Every fence, barrier and retaining wall on or upon Residential Property shall be kept in a good state of repair, free from hazards, and shall be protected by paint, preservation or other weather-resistant materials.
11. Any Vehicle that is in a wrecked, discarded, dismantled or abandoned condition shall not be parked, stored or left on any Property.

IV. Non-Residential Property Standards

12. The provisions contained in Part III of this bylaw shall apply to Non-Residential Property, but Non-Residential Property used for Agricultural Purposes shall not be bound by the standards set forth in Section 7 and 8 of this Bylaw.
13. Notwithstanding Section 12, nothing in this Bylaw shall in any way affect generally accepted agricultural practices.
14. The Owner of every building or structure situate upon Non-Residential Property shall ensure that there are sufficient receptacles for all Litter and shall ensure that the Non-Residential Property is free from Litter.
15. Any Owner or occupant of a Non-Residential Property who requires outdoor storage for any purpose shall enclose the outdoor storage area with a fence having a minimum height of five feet (5').

V. Vacant Property Standards

16. (a) No Owner of Vacant Property shall cause or permit the Vacant Property to become an Unsightly or Dangerous Property.

- (b) Where a Vacant Property is adjacent to Residential property, it shall be maintained in accordance with the Residential Property standards set out in Part III herein, but Vacant Property used for Agricultural Purposes shall not be bound by the standards set out in Sections 7 and 8 of this Bylaw.

17. Vacant Property shall be subject to the following:

- (a) where the Vacant Property is adjacent to Residential Property, it shall be maintained in accordance with the Residential Property standards set out in Part III herein; and
- (b) all Vacant Property shall be free of objects or conditions that may create health, fire or accident hazards.

VI. Burning

18. Except as allowed in subsection (a), no person shall light any exterior fire or burn rubbish, leaves or other vegetation in the Town.

- (a) Notwithstanding any other provisions of this bylaw, the following shall be permitted:
 - (i) The burning of wood in enclosed outdoor fireplaces that have proper spark arrestors in place;
 - (ii) Gas, propane and charcoal barbeques;
 - (iii) Controlled burns by the North River Community Fire Department Company for the purpose of training; and
 - (iv) The burning of brush, grass or vegetation of *bona fide* farms in accordance with a valid permit issued pursuant to provincial legislation provided that the fire chief is notified at least 24 hours in advance.

VII. Notices

19. The Council may appoint persons as Inspectors for the purposes of this bylaw.

20. Where any Property does not conform with the standards imposed by this bylaw, Council may issue a Notice upon receiving a report from an Inspector that states why the Property does not conform with this bylaw.

21. The Notice shall be in writing, shall be issued to the Owner, shall be signed by the Town's chief administrative officer or such other person as may be designated by Council, and shall:

- (a) state the reasons why the Property does not meet the standards contained in this bylaw;
 - (b) state the date before which the Property must be brought up to the standards contained in this bylaw; and
 - (c) order the Owner to:
 - (i) demolish any Dilapidated Building or part thereof;
 - (ii) remove any Litter causing or contributing to the unsightliness of the Property;
 - (iii) construct something to prevent the Property from being viewed; or
 - (iv) do any other thing to remedy the unsightliness of the Property, to prevent the Property from being or from continuing to be a Dangerous Property, or do any other thing necessary to conform with the provisions of this by-law.
22. The Notice shall be served on the Owner:
- (a) by personal service thereof to the Owner;
 - (b) by posting the Notice by registered mail with the postage prepaid, addressed to the Owner at his or her last known address; or
 - (c) where the Owner's address is unknown, by posting the Notice in a conspicuous place on the Property.
23. For the purposes of this bylaw, the effective date of service shall be:
- (a) on the date of delivery when personal service is made;
 - (b) on the second day after deposit in the mail when service by mail is made; or
 - (c) on the date of posting when the Notice is posted on the Property.
24. Proof of service of the Notice may be made by an affidavit of the person serving the Notice, which affidavit shall set forth the manner in which service was made and the time and date of service.
25. The affidavit referred to in section 22 shall be proof of the signature of the person who served the Notice and shall be proof that the Owner named in the Notice received notice of the matters referred to in the Notice.

26. Failure to comply with the contents of a Notice referenced in paragraph 21 (c) within the time specified in paragraph 21 (b) shall constitute an offence and shall be subject to the penalties set out herein.
27. A notice shall continue in force from the effective date of service under paragraph 23 until such date as may be specified in the Notice in accordance with paragraph 21 (b), and each day the Owner fails to comply with the directions contained in the Notice shall be considered a separate violation of paragraph 26 and shall constitute a separate offence.
28. The Council may extend the time for compliance with any Notice issued under this bylaw, provided there is evidence of intent to comply with the Notice and reasonable cause existed to prevent compliance within the time therein specified. Where a Notice has been served and the Owner fails to comply with the Notice within the time therein specified, the Council may, by resolution, authorize an Inspector to enter onto or into the Owner's Property for the purpose of carrying out the terms of the Notice.
29. All costs incurred by the Town to carry out the Notice's directives are a debt due and owing to the Town by the Owner, and the Town may take legal action to recover such costs from the Owner and may claim any legal costs incurred by the Town in so doing.
30. The debt referred to in section 30 constitutes and may be recorded as a lien against the Property upon which the Notice was enforced.
31. Where, in the opinion of the Council, there exist reasonable and probable grounds that immediate danger to the life or safety of any person exists by reason of a Dangerous or Dilapidated Building, the chief administrative officer, supported by a resolution of Council, may authorize any person to enter on the premises where the building is located in order to:
 - (a) repair or demolish the building; or
 - (b) evict any person inhabiting the building.

VIII. Hearing

32. Where an Owner, upon whom a Notice has been served in accordance with this bylaw, is not satisfied with the terms or conditions of the Notice, he or she may notify the Council in writing within fourteen (14) days after the Notice is served that he or she disagrees with the Notice and requires a hearing of the matter, and, on the Owner's written notification, the Owner shall state the basis for his or her disagreement with the Notice.
33. Upon Council's receipt of the Owner's written notification, Council shall:
 - (a) determine a date, place and time for the hearing which shall take place not less than seven (7) days, and not more than thirty (30) days, from the date of Council's receipt of the Owner's written notification;

- (b) advise the Owner in writing of the date, place and time of the hearing; and
 - (c) provide the Owner with a copy of the Inspector's report referred to in section 19.
34. The Owner shall be permitted to make submissions, adduce evidence and question the Inspector at the hearing.
35. The Council shall confirm, alter or withdraw the Notice and shall advise the Owner, in writing, of Council's decision within ten (10) days of the hearing.

IX. Enforcement

36. Failure to comply with any provision of the Bylaw shall constitute an offence and shall be subject to the penalties set out herein.
37. (a) The prosecution of offences under this bylaw shall be in accordance with the Town's Summary Proceeding Bylaw, as amended from time to time; and
- (a) This bylaw may also be enforced and any breach thereof may be restrained by application by the Council to the Supreme Court of the Province of Prince Edward Island in accordance with subsection 139(3) of the *Charlottetown Area Municipalities Act* or any successor act or provision.

X. Offences and Liability

38. Any person who fails to comply with this bylaw is guilty of an offence and liable on summary conviction to a fine of not less than Five Hundred Dollars (\$500.00), and not more than Two Thousand Dollars (\$2,000.00), and, on default of payment thereof, is liable to imprisonment for a term not exceeding 60 days.
39. The levying and payment of penalties shall not relieve a person from the necessity of paying any charges or costs for which he or she is liable under this bylaw.
40. The Council, the Town, the Town's employees and any Inspector appointed by the Council pursuant to this bylaw shall not be personally liable for anything done, or omitted to be done, under this bylaw and, without limiting the generality of the foregoing, shall not be liable for the cost of goods, materials or labour incurred in exercising the powers in this bylaw.

XI. General

41. If any provision of this bylaw is held void, then such provision shall be deemed severable and the invalidity thereof shall not affect the remaining provisions of this bylaw.
42. Bylaw 501 is hereby repealed.
43. Bylaw 402 is hereby repealed

EFFECTIVE DATE

This bylaw received first reading at the Council meeting of July 16, 2014.

This bylaw received second reading at the Council meeting of August 20th, 2014.

This bylaw shall come into force effective the 20th day of August, 2014.

Witness the corporate seal of the town.

Glen 'Barney' Fullerton, Mayor

Kevin McCarville, Chief Administrative
Officer

BE IT RESOLVED THAT: Bylaw No. 221, being a Bylaw relating to property maintenance is hereby enacted as a Bylaw of the Town and the mayor and chief administrative officer be and they are hereby authorized to sign the Bylaw and apply the Town's seal thereto.

Dated the 20th day of August, 2014.

Glen 'Barney' Fullerton, Mayor

Kevin McCarville, Chief Administrative
Officer

This Bylaw was filed with the Minister of Finance, Energy and Municipal Affairs on this _____ day of _____, 2014

Department of Finance, Energy and Municipal
Affairs