

TYENDINAGA MOHAWK COUNCIL

BY-LAW NUMBER 16-87

Being a By-Law for prescribing standards for the maintenance and occupancy of rental properties, whether private or Council owned and mortgaged property whose mortgage is held by the Tyendinaga Mohawk Council within the Tyendinaga Mohawk Territory, for prohibiting the occupancy or use of such property that does not conform to the standards, and for requiring property below the standards prescribed herein to be repaired and maintained to comply with the standards or the land thereof, to be cleared of all buildings, structures, debris or refuse and left in a graded and level condition.

WHEREAS the Tyendinaga Mohawk Council enacts a By-Law pursuant to Section 81 (1) paragraphs (f), (h), (j), (l), (p), (p.1), (q), (r), (2) and (3) of the Indian Act R.S.C. Chapter 1 - 6.

NOW THEREFORE the Tyendinaga Mohawk Council HEREBY ENACTS as follows:

1. SHORT TITLE

This By-Law may be cited as the "Rental/Mortgaged Property Maintenance and Occupancy Standards By-Law."

2. DEFINITIONS

- (1) Accessory Building - a detached, subordinate building not used for human habitation, located on the same lot as the main building.
- (2) Bathroom - a room containing at least a toilet and bathtub or shower, or two rooms which contain in total at least one toilet and one bathtub or one shower.
- (3) Building - any structure used or intended for sheltering any use or occupancy.
- (4) Council - the Tyendinaga Mohawk Council.
- (5) Dwelling - a building or structure or part of a building or structure occupied or capable of being occupied in whole or in part for the purposes of human habitation and includes the land and premises appurtenant thereto and all outbuildings, fences or erections thereon or therein.
- (6) Dwelling Unit - one or more rooms connected together as a separate unit in the same structure and constituting an independent housekeeping unit for residential occupancy by humans for living and sleeping purposes.
- (7) Fire Resistance Rating - the time in hours that a material construction or assembly will withstand the passage of flame and transmission of heat when exposed to fire under specified conditions of test and performance criteria.
- (8) Habitable Room - any room in a dwelling unit used or intended to be used for living, sleeping, cooking or heating purposes.
- (9) Maintenance - the preservation and keeping in repair of a property.

- (10) Means of Egress - a continuous path of travel provided by a doorway, hallway, corridor, exterior passageway, balcony, lobby, stair, ramp or other egress facility for the escape of persons from any point within a building, floor area, room or contained open space to a public thoroughfare or approved open space.
- (11) Multiple Dwelling - a building containing three (3) or more dwelling units.
- (12) Multiple Use Building - a building containing both a dwelling unit and a non-residential property.
- (13) Non-Habitable Room - any room in a dwelling or dwelling unit other than habitable room, and including a bathroom, toilet room, laundry room, pantry, communicating corridor, stairway, closet, basement, boiler room or other space for service and maintenance of the dwelling for public use, and for access to, and vertical travel between storeys.
- (14) Non-Residential Property - a building or structure not occupied or capable of being occupied in whole or in part for the purposes of human habitation and includes that lands and premises appurtenant thereto.
- (15) Occupancy - the use or intended use of a building for part thereof for the shelter or support of persons, animals or property.
- (16) Occupant - any person(s) over the age of eighteen (18) years in possession of the property.
- (17) Officer - any person(s) appointed as Property Standards Officer by the Council to carry out the administration and enforcement of this By-Law.
- (18) Owner - the person for the time being managing or receiving the rent of or mortgage of the land or premises in connection with which the word is used whether on his own account or as an agent or trustee of any other person or who would also receive the rent or mortgage if such land and premises were let, and shall also include a lessee or occupant of the property who, under the terms of a lease or mortgage, is required to repair and/or maintain the property in accordance with the standards for the maintenance and occupancy of property.
- (19) Property - 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, accessory buildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property.
- (20) Repair - includes the provision of such facilities and the making of additions and 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.
- (21) Residential Property - any property that is used or designed for use as a domestic establishment in which one or more persons usually sleep and prepare and serve meals, and includes any land or buildings that are appurtenant to such establishment and all steps, walks, driveways, parking spaces and fences associated with the dwelling or its yard.
- (22) Sewage - any liquid waste containing animal, vegetable or mineral matter in suspension or solution but does not include roof water or other storm runoff.

- (23) Sewerage System - the sanitary sewerage system or private sewage disposal system approved by designated representative of the Tyendinaga Mohawk Council.
- (24) Standards - the standards of physical condition and of occupancy prescribed for property by this By-Law.

3. MAINTENANCE AND OCCUPANCY STANDARDS

(1) Yards

- a. Yards shall be kept clean and free from rubbish or other debris and from objects or conditions that might create a health, fire or accident hazard.
- b. Heavy undergrowth and noxious plants, such as ragweed, poison oak, poison ivy, and poison sumac, shall be eliminated from the yard.
- c. Any vehicle including a trailer, which is in a wrecked, discarded, dismantled or abandoned condition shall not be parked stored or left in a yard, unless it is necessary for the operating of a business enterprise lawfully situated on the property.
- d. All reasonable means shall be employed to prevent the erosion of soil in the yard.
- e. In the instance of a Council-owned rental property, no living trees, shrubbery or other non-toxic foliage shall be cut down or removed from the property other than those standing within an area to be excavated for the erection of a building thereon except with the expressed written consent of the Council.
- f. No soil, sand or gravel shall be removed from the property without the expressed written consent of the Council.
- g. In the instance of a Council-owned rental property, no excavation shall be made on the property except for the purpose of improving the gardens and grounds thereof.
- h. In the instance of a Council-owned rental property, clotheslines are not to be erected with the exception of clothes tree umbrellas.

(2) Sewage and Drainage

- a. Sewage or organic waste shall be discharged into a sewerage system where such a system exists; where a sewerage system does not exist, sewage or organic waste shall be disposed of in a manner acceptable to the designated representative of the Tyendinaga Mohawk Council.
- b. Sewage of any kind shall not be discharged into the surface of the ground, whether into a natural or artificial surface drainage system or otherwise.
- c. No roof drainage shall be discharged on sidewalks, stairs or neighbouring property.
- d. Storm water shall be drained from the yard so as to prevent excessive ponding or the entrance of water into a basement or cellar.

(3) Safe Passage

Steps, walks and driveways shall be maintained so as to afford safe passage under normal use and weather conditions.

(4) Accessory Buildings and Fences

- a. Accessory buildings and fences shall be kept in good repair and free from health, fire and accident hazards.
- b. Exteriors of accessory buildings shall be kept weather resistant through the use of appropriate weather resistance materials.
- c. In the instance of a Council-owned rental property, no accessory building, fence or erection of any kind shall be erected unless the plans and specifications and location thereof as indicated by a siting plan, including the distances from the front, side and rear limits, shall have previously been submitted to and approved in writing by the Council.

(5) Garbage Disposal

- a. Garbage, refuse and ashes shall be promptly stored in receptacles so as to be kept free from health, fire and accident hazards.
- b. Every building, dwelling or dwelling unit shall be provided with sufficient receptacles to contain all garbage, refuse and ashes that accumulate in the yard, dwelling and/or building.

(6) Pest Prevention

- a. A building shall be kept free from rodents, vermin and insects at all times, and methods used for exterminating rodents or insects or both shall be in accordance with the provisions of the current regulations passed.
- b. Basement or cellar windows, used or required for ventilation, and any opening in a basement or cellar, including a floor drain, that might permit the entry of rodents, shall be screened with wire mesh, metal grill or other durable material which will effectively exclude rodents.

(7) Foundations

- a. The foundation walls and basement, cellar or crawl space floors shall be maintained in good repair and be structurally sound, and where necessary shall be so maintained by shoring of the walls, grouting masonry cracks, waterproofing the walls or floors and installing subsoil drains at footing levels.
- b. Every basement, cellar and crawl space in a building shall be adequately drained.

(8) Overall Structure

- a. Every part of a building shall be maintained in a structurally sound condition so as to be capable of sustaining safely its own weight and any additional weight that may be put on it through normal use; materials which have been damaged or show evidence of rot or other deterioration shall be repaired or replaced.
- b. All exterior surfaces shall be of materials which provide adequate protection from the weather.

- c. The exterior walls, roofs and other parts of a building shall be free from loose, rotten, warped and broken materials and objects; such materials and objects shall be removed, repaired or replaced.

(9) Thermal Insulation

Thermal insulation of buildings to minimize heat losses shall be done in accordance with the provisions of the Residential Building Code for Indian Reserves where necessary and practicable.

(10) Exterior Walls

The exterior walls and their components of a building shall be maintained so as to prevent their deterioration due to weather and insects and shall be so maintained by the painting, restoring or repairing of the walls, coping or flashing, by the waterproofing of joints and of the walls themselves, by the installing or repairing of termite shields and by the treating of the soil with appropriate pesticides.

(11) Roofs

A roof including the fascia board, soffit, cornice and flashing shall be maintained in a watertight condition so as to prevent the leakage of water into the building.

(12) Dampness

The interior floors, ceilings and walls of a building shall be kept free from dampness arising from the entrance of moisture through an exterior wall or through the roof or through a cellar, basement or crawl space.

(13) Doors and Windows

- a. Windows and exterior doors and frames and basement or cellar hatchways shall be maintained in good repair so as to prevent the entrance of wind or rain into the building.
- b. Rotted or damaged doors, door frames, window frames, sashes and casings, weatherstripping, broken glass and missing or defective door and window hardware shall be repaired or replaced.
- c. Doors and windows shall be of such a construction as to prevent drafts and minimize heat losses through infiltration of outside cold air in cold weather seasons.

(14) Stairs and Porches

Inside or outside stairs and porches shall be maintained so as to be free of holes, cracks and other defects which may constitute possible accident hazards and all treads or risers that show excessive wear or are broken, warped or loose and all supporting structural members that are rotted or deteriorated shall be repaired or replaced.

(15) Egress

- a. There shall be provided and maintained a secondary means of egress from the building for every dwelling unit located on each floor above the first floor and for two or more dwelling units located in the basement, so as to provide a safe and convenient means of egress in case of an emergency.

- b. The means of egress and fire warning devices shall be to the satisfaction of the Council as recommended by the Mohawk Fire Department.

(16) Walls and Ceilings

- a. Every wall and ceiling finish shall be maintained in a clean condition and free from holes, loose coverings or other defects which would permit flame or excessive heat to enter the concealed space.
- b. Where fire resistant walls exist between separate dwelling units, they shall be maintained in a condition which maintains their fire resistant quality.

(17) Floors

- a. Every floor shall be reasonably smooth and level and be maintained so as to be free of all loose, warped, protruding, broken or rotted boards or material that might cause an accident, and all defective floor boards or materials shall be repaired or replaced.
- b. The floor of every bathroom, shower room and toilet room shall be so maintained as to be resistant to water and readily cleaned.

(18) Cleanliness

Every floor, wall ceiling and fixture in a building shall be maintained in a clean and sanitary condition, and the building shall be kept free from rubbish, debris or conditions which constitute a fire, accident or health hazard.

(19) Water

- a. Every dwelling unit shall be provided with an adequate supply of drinkable running water from a source approved by the designated representative of the Tyendinaga Mohawk Council.
- b. Adequate running water shall be supplied to every water closet.
- c. Every sink, wash basin, bathtub or shower shall have an adequate supply of hot and cold running water.

(20) Plumbing

All plumbing, pipes and plumbing fixtures shall be kept in good working condition and free from leaks and defects, and all water pipes and appurtenances thereto shall be protected from freezing.

(21) Toilet, Kitchen and Bathroom Facilities

- a. Every self-contained dwelling unit shall be provided with at least one kitchen sink, water closet, wash basin, and bathtub or shower, and an acceptable means of sewage disposal.
- b. Where toilet, kitchen or bathroom facilities are shared by the occupants of residential accommodation other than self-contained dwelling units, an appropriate entrance shall be provided from a common passageway, hallway, corridor or other common space to the room or rooms containing the said facilities. The number of toilets, kitchens or bathrooms required shall be related to the number of occupants sharing the facility in accordance with the Residential Building Code for Indian Reserves.

(22) Kitchens

- a. Every self-contained dwelling unit shall contain a kitchen area equipped with a sink, served with hot and cold water where available, storage facilities, a counter top work area and space for a stove and refrigerator.
- b. Every kitchen shall have provided an adequate and approved gas or electrical or other fuel supply for cooking purposes.
- c. There shall be at least thirty inches (30") clear space above any exposed cooking surface.

(23) Heating System

- a. Every dwelling shall be provided with suitable heating facilities capable of maintaining an indoor temperature of 20 degrees C (70 degrees F) for all dwelling units contained therein.
- b. The required heating system shall be maintained in good working condition so as to be capable of heating the dwelling safely to the required standards.
- c. No room heater shall be placed so as to cause a fire hazard to walls, curtains and furniture, nor to impede the free movement of persons within the room where the heater is located.
- d. Where buildings contain two or more dwelling units, fuel fired heating appliances shall be located safely enclosed or separated from the remainder of the building in conformance with the Residential Building Code for Indian Reserves.

(24) Chimneys

- a. Any heating or cooking apparatus or equipment used in the process of burning fuel or combustible material where required, shall be properly vented to the outside air by means of a smokepipe, vent pipe or similar adequate chimney.
- b. Such heating or cooking apparatus or cooking equipment shall be properly connected to the chimney or flue by a permanently sealed connection.
- c. All connections between gaseous and liquid fuel burning appliances and equipment shall be maintained in good repair.
- d. All gaseous and liquid fuel burning appliances and equipment shall comply with the relevant regulations.

(25) Electrical Services

- a. Where available, electrical facilities complying with the requirements of the Ontario Hydro shall be provided for all residential accommodation.
- b. Existing wiring and electrical facilities complying with the requirements of the Ontario Hydro shall be provided for all residential accommodation.
- c. Existing wiring and electrical equipment shall be in good, serviceable and safe condition, as required by the Ontario Hydro.

(26) Light

- a. Every habitable room, except for a kitchen, shall have a window or windows, skylights or translucent panels that face directly to the outside with an unobstructed light transmitting area of not less than ten per cent of the floor area of such rooms. The glass area of a sash door may be considered as a portion of the required window area.
- b. All public halls and stairs in multiple dwellings shall be illuminated at all times so as to provide safe passage.

(27) Ventilation

- a. Every habitable room shall have an opening or openings for natural ventilation and such openings shall have a minimum aggregate unobstructed free flow area of three square feet.
- b. An opening for natural ventilation may be omitted from a kitchen, living room or living-dining room if mechanical ventilation is provided which changes the air once each hour.
- c. Every bathroom or toilet room shall be provided with an opening or openings for natural ventilation or a system of mechanical ventilation which operates continuously or whenever the light is turned on in the bathroom or toilet room.

(28) Occupancy Standards

- a. The occupancy of any residential dwelling situated within the Tyendinaga Mohawk Territory shall conform to the residency requirements of the Council.
- b. No person shall use, or permit the use of, a non-habitable room in a building for a habitable room purpose.
- c. The maximum number of occupants in a dwelling unit shall not exceed one person per 100 square feet of habitable room floor area; any child under one year of age shall not be counted when computing the number of occupants; any child over one year, but less than twelve years shall be deemed one-half person in the computation of the number of occupants.
- d. The floor area under a ceiling which is less than 7 feet high shall not be counted for the purpose of computing habitable room space.
- e. Every room used for sleeping purposes in a dwelling or dwelling unit shall provide a minimum width of 6 feet and 600 cubic feet of air space for each occupant; the corresponding floor area should be not less than 60 square feet for the first occupant and not less than 40 square feet for each additional occupant.

4. PROPERTY STANDARDS OFFICER TO ENFORCE BY-LAW

- (1) The Property Standards Officer, or any person(s) appointed by the Council, shall enforce the provisions of this By-Law.
- (2) If, after inspection, the Officer is satisfied that, in some respect, the property does not conform to the standards prescribed herein, he shall serve or cause to be served by personal service upon, or send by prepaid registered mail to the owner of the property and all persons shown by the records of the Mohawk Administration Office to have any interest therein a notice containing particulars of the non-conformity and may, at the same time, provide all occupants with a copy of such notice.

- (3) After affording any person served with notice provided for by subsection (2) an opportunity to appear before the Officer and to make representations in connection therewith, the Officer may make and serve or cause to be served upon or send by prepaid registered mail to such person an order containing:
 - a. the description of such property.
 - b. reasonable particulars of the repairs to be effected or a statement that the site is to be cleared of all buildings, structures, debris or refuse and left in a graded and levelled condition and the period in which there must be compliance with the terms and conditions of the order and notice that, if such repairs or clearance is not so done within the time specified in the order, the Council may carry out the repair or clearance at the expense of the owner, and
 - c. the final date for giving notice of appeal from the order.
- (4) A notice or order under subsection 2 or 3, when sent by registered mail shall be sent to the last known address of the person to whom it is sent.
- (5) If the officer is unable to effect service under subsection (2) or (3), he shall place a placard containing the terms of the notice or order in a conspicuous place on the property, and the placing of the placard shall be deemed to be sufficient service of the notice or order on the owner or other persons.

5. ROLE OF THE COUNCIL

- (1) When an owner or occupant upon whom an order has been served in accordance with this By-Law is not satisfied with the terms or conditions of the order, he may appeal by registered mail to the Council within fourteen (14) days after service of the order, and, in the event that no appeal is taken, the order shall be deemed to have been confirmed.
- (2) The Council, in receipt of the notice of appeal referred to in Subsection (1), shall:
 - a. determine the date, place and time of the hearing of the appeal which shall take place not less than seven (7) days and not more than thirty (30) days from the date of receipt of the aforesaid notice; and
 - b. give notice in writing of the date, place and time of the hearing referred to in paragraph a to:
 - (i) the appellant,
 - (ii) the officer who issued the order, and
 - (iii) any other interested persons and said notice to be served personally or by registered mail.
- (3) The Council shall:
 - a. hold the hearing referred to in Subsection (2) at the date, place and time set out in the notice, and
 - b. have all the powers and functions of an officer.
- (4) The Council may adopt its own rules of procedure.

- (5) The Council may:
 - a. confirm the order,
 - b. modify or quash the order, or
 - c. extend the time for complying with the order provided that, in the opinion of the Council, the general intent and purpose of this By-Law is maintained.
- (6) The Council shall give its decision by motion.
- (7) The Office Manager shall notify in writing:
 - a. the appellant,
 - b. the officer who issued the order, and
 - c. any other person who appeared at the hearing of the appeal, of the decision, to be served personally or by registered mail.
- (8) Final and Binding Order

The Order, when no appeal is taken within the time prescribed or after an appeal pursuant to Subsection (1) shall be final and binding upon the owner or occupant, who shall make the repair or effect the demolition within the time and in the manner specified in the Order.

6. CERTIFICATE OF COMPLIANCE

Following the inspection of a property, the Officer may, or on the request of an owner shall, issue to the owner a Certificate of Compliance if, in his opinion, the property is in compliance with the standards of this By-Law.

7. PENALTIES

- (1) A Penalty of not more than \$50.00 shall be levied upon an owner for each day that he is in contravention of an Order that is final and binding.
- (2) Every person who removes a placard referred to in Section 4, (5) is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty of not less than \$5.00 and not more than \$50.00, exclusive of costs.

8. BY-LAW TO TAKE EFFECT

This By-Law shall come in force on the passing thereof.

Paul H. ... Oct 21/87
Chief Date

William B. ... Oct 21/87
Councillor Date

George J. ... 87-10-21
Councillor Date

Donald M. ... Oct 21, 1987
Councillor Date

Murray M. ... Oct 21/87
Councillor Date



BAND COUNCIL RESOLUTION
RÉSOLUTION DE CONSEIL DE BANDE

NOTE: The words "From our Band Funds" "Capital" or "Revenue", which ever is the case, must appear in all resolutions requesting expenditures from Band Funds
NOTA: Les mots "des fonds de notre bande" "Capital" ou "revenu" selon le cas doivent paraître dans toutes les résolutions portant sur des dépenses à même les fonds des bandes

THE COUNCIL OF THE LE CONSEIL DE LA BANDE INDIENNE	MOHAWKS OF THE BAY OF QUINTE	Current Capital Balance Solde de capital	\$ _____
AGENCY DISTRICT	PETERBOROUGH DISTRICT	Committed - Engagé	\$ _____
PROVINCE	ONTARIO	Current Revenue balance Solde de revenu	\$ _____
PLACE NOM DE L'ENDROIT	TYENDINAGA INDIAN RESERVE # 38	Committed - Engagé	\$ _____
DATE	23 Oct AD 19 87 DAY - JOUR MONTH - MOIS YEAR - ANNÉE		

DO HEREBY RESOLVE:
DÉCIDE, PAR-LES PRÉSENTES:

Moved by Douglas E. Maracle, seconded by Willard H. Brant that this Council hereby accepts the Bayshore Road Subdivision By-Law # 16 - 87, which is attached for your approval.
This By-Law pursuant to Section 81 (1) paragraphs (f), (h), (j), (l), (p), (p.1), (q) (r), (2) and (3) of the Indian Act R.S.C. Chapter 1 - 6.

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Pour cette bande le quorum est

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fixé à

Council Members
Membres du Conseil

Carl H. ...
(Chief - Chef)

Willard H. Brant
(Councillor - conseiller)

Douglas E. Maracle
(Councillor - conseiller)

Douglas E. Maracle
(Councillor - conseiller)

Willard H. Brant
(Councillor - conseiller)

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FOR DEPARTMENTAL USE ONLY - RÉSERVÉ AU MINISTÈRE

1. Band Fund Code Code du compte de bande	2. COMPUTER BALANCES - SOLDES D'ORDINATEUR		3. Expenditure Dépenses	4. Authority - Autorité Indian Act Sec Art. de la Loi sur les Indiens	5. Source of Funds Source des fonds <input type="checkbox"/> Capital <input type="checkbox"/> Revenue Revenu
	A. Capital \$	B. Revenue - Revenu \$			
Recommended - Recommandable			Approved - Approuvable		
Date Recommending Officer - Recommandé par			Date Approving Officer - Approuvé par		