

THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS

STAFF REPORT

DATE: January 12, 2020
TO: Committee of the Whole
FROM: Dan Prest, Chief Building Official
SUBJECT: **Safe Property By-law**

RECOMMENDATION:

THAT Committee of the Whole recommends to Council the Safe Property By-law be adopted as presented.

BACKGROUND:

The Municipality has a 'Property Standards By-Law' that was created under the authority of the *Ontario Building Code Act* in 2003. The By-Law addresses various potential scenarios and includes provisions respecting the upkeep of both yards and structures. In cases where complaints are received, respecting non-structural issues, investigation and enforcement of the by-law is delegated to the appointed Municipality's By-Law Enforcement Officers.

On November 17, 2020 staff tabled a report at Committee of the Whole with regards to the adoption of an urban focused property standards by-law - Clean Yards By-law. The report was deferred, and Council members asked for additional information.

Staff recommended that a more efficient and succinct method for regulating and enforcing compliance of non-structural property standards complaints would be through the adoption of a companion By-Law to the 'Property Standards By-Law' called the 'Safe Property By-law'.

The 'Safe Property By-Law' mirrors the 'Property Standards By-Law' but uses the *Municipal Act* for enforcement and will simplify the administrative steps of the process.

The 'Safe Property By-Law' is authorized for use by the *Municipal Act* and allows for a prompt and efficient approach to minor exterior yard infractions by enabling the use of an 'educational visit/phone call/business card' then followed up by a 'Notice to Comply' and, if there is noncompliance, a 'Short Form Ticket' will be issued.

DISCUSSION:

The previous report described the rationale for the proposed by-law. To reiterate the purpose of the by-law is to reduce the administrative process that is required in order to address a problem using the current Property Standards by-law of Mississippi Mills. The Property Standards by-law applies to the entire municipality – both urban and rural. The Property Standards by-law will still apply to the urban lands after the adoption of the Safe Properties Bylaw as well but there will be a choice of enforcement mechanism. Many of the issues that are generally dealt with through the Property Standards by-law are focused on the urban portion of the municipality – grass too long, garbage on property, etc... These issues are often repeat issues.

Under the current Property Standards By-law the process involves the receipt of a complaint, by-law officer visiting the property, investigation of issue, and the issuance of a report that is in the form of an order. The order to comply is a Part III Order.

The Safe Property By-law can be initiated by a complaint or be proactive, by-law officer visiting the property, investigation of issue, and the issuance of a request to comply or ticket. The Ticket is a Part I short form ticket.

The administrative process is the **main** difference between the Safe Property and the Property Standards by-laws.

Table 1 – Comparison of Administrative Processes

	Safe Property	Property Standards
	Investigation on site	Investigation on site
1	Issue Notice	
2	Issue Ticket	Report in the form of an Order
3		Registered Mail Sent - staff trip to Post Office
4		Wait 6 days for receipt
5		14 days for right of appeal
6		Schedule Committee of Adjustment
7		Order to comply issued
8		Ticket and fine
9	Right of Appeal to Court	Right of Appeal to Court

This process can take approximately 6 weeks in order to address very minor property standards issues. The Safe Properties By-law authorizes a simpler process in order to issue a ticket/fine and reduce the timeline to achieve compliance.

There was discussion of the authority to enter onto property. The authority to enter onto property is contained in both the *Municipal Act* and the *Building Code Act*. The relevant section of the *Municipal Act* is below:

Powers of Entry

Power of entry re inspection

436.(1) A municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether the following are being complied with:

1. A by-law of the municipality passed under this Act.
2. A direction or order of the municipality made under this Act or made under a by-law of the municipality passed under this Act.
3. A condition of a licence issued under a by-law of the municipality passed under this Act.
4. An order made under section 431. 2006, c. 32, Sched. A, s. 184.

There are authorities in several existing by-laws of the Municipality of Mississippi Mills with regards to the authority of staff to enter onto property. For example:

- Comprehensive Zoning By-law 11-83;
- Property Standards By-law -03-35;
- Regulate the Use of Sewers By-Law 18-92; and
- Water Use By-law 02-102 free access to all parts of a building served with water.

To clarify the point of the by-law is to deal with minor property issues and it does not create additional rights of entry for by-law enforcement staff. The following wording has been added to the proposed Safe Property By-law, Section 6 Right of Entry to clarify this aspect:

An employee of the Corporation shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant.

In circumstances where the issue is within a structure this would provide for consent of the occupant of the dwelling before proceeding to investigate but it is not intended that a by-law officer could be denied enter onto land to investigate exterior issues in the exercise of their duties.

Council should consider that a passive level of pro-active enforcement be considered with this By-Law. James McBain and I have many decades of experience in By-law and Property Standards. We have found that neighbours generally do not want to report their neighbours for contraventions of by-laws. Removing this as a requirement will avoid property owners having to confront their neighbour that could result in poor relationships and/or a build-up of resentment. Residents call us to report problems but do not want to be identified.

As a method of implementing the pro-active enforcement we suggest that officers carry business cards similar to building inspectors where front of card has officer name and contact info and the back of bylaw cards has this:

Date / Time

Grass/Weeds getting long - please cut _____

Garbage on lawn - please remove _____

Please call re: grass, garbage etc. _____

Thank you for your cooperation

The officer would leave a business card with the appropriate item checked off so that property owner has a record of the visit and is aware of the issue to be remedied.

OPTIONS:

Option 1:
Adopt the by-law as drafted.

Option 2:
Adopt the By-law with amendments to the fine structure to increase or decrease the fines for each infraction as Council sees appropriate.

Option 3:
Continue to use the Property Standards By-law and recognize that issues will take longer to resolve.

FINANCIAL IMPLICATIONS:

It is anticipated that this new process will reduce staff time and some minor administrative costs. There are no additional costs to implement this new process.

SUMMARY:

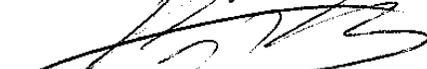
The current administrative process that is required in the Property Standards By-law is cumbersome and extends the timeline to implement a ticket/fine penalty to approximately 6 weeks. The new process contained in the Safe Property By-law would reduce the administrative process and allow the by-law officer to issue a ticket with a corresponding fine. Staff recommend that Council adopt the Safe Property By-law for implementation in the urban portion of the Municipality.

Respectfully submitted by,



Dan Prest,
Chief Building Official

Reviewed by:



Ken T. Kelly,
Chief Administrative Officer

ATTACHMENTS:

1. Comparison of Safe Property By-law to Property Standards By-law
2. Safe Property By-law 20-XXXX
3. Notice under the Safe Property By-law
4. Safe Property By-law Set Fines and Short Form Wording
5. Proof of Business Card – Notice of Issue