

By-law No. 2499-10

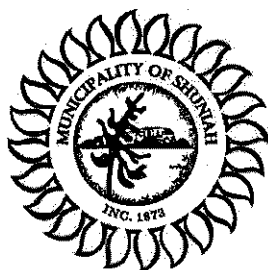
As Amended by By-Law No. 2591-12

Being a Property Standards By-law
for the
Corporation of the Municipality of Shuniah

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The Corporation of the Municipality of Shuniah



BY-LAW NO. 2499-10

Being a by-law prescribing standards for the maintenance and occupancy of property and to repeal By-law 2330-08.

Recitals:

- a) This by-law is passed under authority of several statutes, including: the *Building Code Act*, 1992, the *Municipal Act*, 2001, the *Fire Protection and Prevention Act*, 1997, and the *Health Protection and Promotion Act*.
- b) The Official Plan of the Corporation of the Municipality of Shuniah includes provisions relating to property conditions, which enable the Council to enact a by-law under Subsection 15.1 (3) of the *Building Code Act*, 1992.
- c) Subsection 15.6 (1) of the *Building Code Act*, 1992 requires that a property standards by-law must establish a Property Standards Committee
- d) After review Council deemed it necessary to replace by-law 2330-08 with a revised Property Standards By-law to include provisions for penalties under the *Provincial Offences Act* for persons who contravene or fails to comply with a Final Order.

THEREFORE, THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF SHUNIAH ENACTS AS FOLLOWS:

PART 1

1. APPLICATION AND INTERPRETATION

1.1 SHORT TITLE

- 1.1.1 This By-law may be referred to as "The Property Standards By-law".

1.2 APPLICATION & INTENT

- 1.2.1 The standards for maintenance and occupancy of property set forth in this by-law are hereby prescribed and adopted as the minimum standards for all property within the Municipality of Shuniah.
- 1.2.2 The intent of this by-law is to protect the health and safety of residents in the Municipality and to promote a pleasant and tidy community by ensuring that both buildings and properties are maintained in an attractive, safe and healthy manner.

1.3 ENFORCEMENT

- 1.3.1 Enforcement of this by-law will be largely generated on a complaint basis, ~~unless any violations are obvious to the Officer.~~ Complaints shall be provided in writing and shall include the name, address and telephone number or other contact information of the complainant. Failure to provide the required complainant information shall render the complaint incomplete and it will not be investigated. The identity of the complainant shall be treated as confidential information and shall not be released to offending property owner.

Amended by
By-law 2591-12

- 1.3.2 Anonymous complaints or third party complaints which attempt to obscure the identity of the complainant will not be investigated. Where an officer has determined that a complaint has been filed for a malicious or vexatious reason or as part of an ongoing pattern of harassment and does not involve a matter of legitimate health or safety, the officer may cease the investigation and close the file with no further action taken. The officer shall then advise the complainant of this in writing.

1.4 INTERPRETATIONS

- 1.4.1 Interchange-ability: Words used in the present tense include the future words in the masculine gender, and include the feminine and neuter; the singular number includes the plural, and the plural includes the singular;

- 1.4.2 Terms Defined: Unless otherwise expressly stated, terms shall for the purpose of this By-law, have the meaning indicated in Part 2, Section 2, of this By-law.

- 1.4.3 Terms Not Defined: Where terms are not defined under the provisions of this By-law, they shall have the meanings ascribed to them in the Ontario Building Code or, if not defined in the Ontario Building Code, they shall have the meanings ascribed in the Ontario Fire Code or, if not defined in the Ontario Fire Code, they shall have ascribed to them their ordinarily accepted meanings, and such as the context herein may imply.

1.5 DEFINITIONS

Accessory Structure means a building or structure, the use or occupancy of which is incidental to the main use or occupancy of any other building on the premises, or which, if there is no other building on the premises, is incidental to the use of the premises.

Applicant means an individual or entity applying for a permit under the provisions of this Policy or the Building By-law.

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.

Brush means the severed portions of limbs or branches of trees or shrubs.

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* and any regulation made under that Act.

Committee means The Property Standards Committee established under this By-law.

Council means the Council of the Municipality.

Debris includes but is not limited to garbage, rubbish, refuse, or wrecked, decayed, dilapidated, or inoperative vehicles or machinery, and parts thereof.

Development includes any erection, construction, alteration, replacement or relocation of or addition to any structure and any change or alteration in the use made of land or structures as defined within the *Planning Act*, as may be amended from time to time.

Drainage means a system of natural or artificial drains.

Dwelling means a building, structure, mobile home or recreational vehicle with or without 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, and includes such a building, home or vehicle that would be or would be intended to be used for such purposes, except for its state of disrepair.

Exterior Property Areas means the premises, exclusive of buildings and accessory structures.

Fence shall mean a linear barrier erected, growing or maintained on land in the Municipality of Shuniah and includes a hedge, free standing wall, structure or partition of any material or combination of materials enclosing, partly enclosing or dividing land, or being used for decorative purposes.

Guard means a protective barrier around openings in floors or at the open sides of stairs, landings, balconies, mezzanines, galleries, raised walkways or other locations to prevent accidental falls from one level to another. Such barriers may or may not have openings through it.

Grading means the alteration of land levels, including the addition or removal of topsoil or other material of any kind.

Ground Cover means organic or non-organic material applied to prevent the erosion of the soil, e.g., concrete, flagstone, gravel, asphalt, grass or other forms of landscaping.

Habitable Room means a room or enclosed floor space used, or capable of being used for living, eating, sleeping or domestic food preparation purposes, but excludes a bathroom, water closet compartment, laundry, pantry, foyer, lobby, hall, passageway, corridor, closet, stairway, basement or cellar recreation room, storage room, furnace room or other accessory space used for service, maintenance or access within a building.

Heating appliance means a device to convert fuel into energy and includes all components, controls, wiring, and piping required to be part of the device by the applicable standards referred to in the Building Code.

Lot Grading Plan means a plan of final grading of land for an individual lot of land prepared in accordance with the Lot Grading and Drainage General Specification.

Municipality means the Corporation of the Municipality of Shuniah.

Noxious Weed means any weed classed as noxious by the *Weed Control Act* of the Province of Ontario.

Occupant means any person or persons over the age of 18 years in possession of the property.

Occupancy means the use or intended use of a building or part thereof for shelter or support of persons, animals or property.

Officer means a property standards officer who has been assigned or appointed by the Municipality as a property standards officer to either administer or enforce this by-law and includes a chief building official and or building inspector for the Municipality.

Openable Area means that part of a window or door which is available for unobstructed ventilation and which opens directly to the outdoors.

Owner includes,

- a) 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 the

- person's own account or as agent or trustee of any other person, or who would so received the rent if such land and premises were let, and
- b) 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 includes an individual, firm, corporation, association or partnership.

Premises means that portion of real property which is owned by a specific person, and includes all buildings and structures thereon.

Property means 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, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property.

Repair includes the provision of facilities, the making of additions or alterations or the taking of any other action that may be required to ensure that a property conforms with the standards established in the *Building Code Act*.

Residence Building means a building containing within its walls one or more residences, rooming or dwelling units, and which may, in addition, contain other uses.

Retaining Wall means a retaining wall exceeding 1000 mm (3 ft 3 in) in exposed height adjacent to: i) public property ii) access to a building, or iii) private property to which the public is admitted.

Residence Unit means a residential premises with an external entrance with or without a basement. This category includes detached, semi-detached or row-type housing, farm houses, modular or prefabricated houses.

Rooming Unit means one or more habitable rooms with shared sanitary, cooking or eating facilities, or with no cooking or eating facilities, which are rented or capable of being rented to a person for gain.

Salvage Yard includes a scrap yard, junk yard and wrecking yard, whether or not an active business is carried on therein, or such yard is used for storage purposes.

Sewage means sanitary sewage or storm sewage.

Sign means any sign ranging from a large outdoor display to a small neon window display.

Single Family Dwelling means a dwelling unit consisting of a detached house, one unit of row housing or one unit of a semi-detached, duplex, triplex, or quadruplex house, with its own external entrance, including the following homes: modular, prefab, mobile, cottages, or a unit within a larger building where the main entrance to individual unit is not from an enclosed common area.

Subdivision means the division of any area of land into two or more parcels, and includes a re-subdivision and a consolidation of two or more parcels as defined within the *Planning Act*, as may be amended from time to time.

Suite means a single room or series of rooms of complementary use, operated under a single ownership or occupancy, and includes dwelling units, individual guest rooms in motels, hotels, boarding houses, rooming

houses and dormitories as well as individual store; and individual or complementary rooms for business and personal services occupancies.

Swale means concrete drainage swale or grassed area between two adjacent properties constructed at a specified grade to facilitate and control the flow of water.

Unsafe Condition means any condition that would cause undue or unexpected hazard to life, limb or health of any person authorized or expected to be on or about the premises.

Visual barrier shall mean a continuous, uninterrupted structure which completely blocks lines of sight when viewed perpendicularly from.

Vehicle shall mean a motor vehicle, trailer, boat, motorized snow vehicle, mechanical equipment and any vehicle drawn, propelled or driven by any kind of power, including muscular power.

Water distribution system means a system which is owned and maintained by a public water utility and which consists of pipes and appurtenances carrying and distributing potable water for domestic and/or fire protection purposes and includes any pumping stations and reservoirs.

Yard means the land within the boundary lines of the property and not occupied by the principal building.

PART 2

2. GENERAL STANDARDS

2.1 APPLICATION OF STANDARDS

2.1.1 The standards set out in the By-law apply to all property within the Municipality of Shuniah regardless of its use, unless another specific section of this By-law provides a different standard for a particular property use.

2.1.2 All property within the municipality that does not conform with the standards contained in this by-law shall be repaired and maintained to conform with the standards or the site to be cleared of all buildings, structures, debris or refuse.

2.1.3 No person shall occupy or use, or permit the occupancy or use, of any property that does not conform to the standards prescribed in this by-law.

2.2 GENERAL DUTIES TO REPAIR AND MAINTAIN

2.2.1 Every owner and occupant must repair and maintain his or her land in accordance with the standards prescribed in this by-law

2.2.2 All repairs and maintenance of land shall be carried out with suitable and sufficient materials and in a manner accepted as good workmanship within the trades concerned. All new construction or repairs shall conform to the *Building Code Act, 1992*, the *Fire Protection and Prevention Act, 1992*.

2.3 PROHIBITION AGAINST RENTING LANDS THAT DO NOT MEET STANDARDS

2.3.1 No Owner of Lands shall permit the use or occupancy of and/or rent or lease to, and/or offer to rent or lease to, another person, any Land that does not conform to the provisions of this By-law

2.4 BUILDING AND ACCESSORY STRUCTURES

- 2.4.1 Occupied buildings and accessory structures shall comply with the requirements of this By-law and the Ontario Building Code and the *Building Code Act*.

2.5 STRUCTURAL CAPACITY

- 2.5.1 A building, accessory structure, or any part thereof shall be capable of resisting, with at least the factor of safety specified in the Building Code, its own weight and the load that may be applied to it through natural causes, via, snow, wind and all other such causes, all as set out in the Building Code, and without exceeding the soil capacity and the maximum differential, or other settlement as specified therein.

- 2.5.2 An inspection report prepared, stamped and signed by an engineer and/or other qualified person in the pertinent field and licensed and/or certified and has completed the required examinations and is registered as a designer as per the requirements of the Ontario Building Code and Act in the Province of Ontario, shall be submitted for approval when the structural capacity of any part of a building or accessory structure, in the opinion of the Chief Building Official and/or Building Inspector, is in doubt.

2.6 FIRE AND ACCIDENT PROTECTION

- 2.6.1 When, because of the existence of a building or accessory structure, or the contents thereof, an unsafe condition exists to persons on or about the exterior property areas of a premises, the Building Code shall apply to the extent necessary to abate the unsafe condition as per Section 15.9 of the *Building Code Act*.

- 2.6.2 In the event that strict application of the Building Code is not practical, the Property Standards Officer and/or Chief Building Official may accept alternative measures, provided the standard of safety that results is generally equivalent to the standards provided within the Building Code.

- 2.6.3 When an unsafe condition exists to persons on or about the exterior property areas of a premise, and such condition is regulated by the Fire Code, the Fire Code shall apply to the extent necessary to abate the unsafe condition.

2.7 HEALTH

- 2.7.1 All buildings and accessory structures on premises shall be kept free of garbage, refuse, and pests, such as rodents, vermin, termites and injurious insects.

- 2.7.2 Retaining walls shall be maintained in good repair and free from accident hazards.

2.8 FOUNDATIONS

- 2.8.1 Every foundation forming a part of a building or an accessory structure shall be maintained in good repair so as to prevent settlement detrimental to the appearance of the building, or the entrance of moisture, insects or rodents into the building.

2.9 EXTERIOR WALL, COLUMNS AND BEAMS

- 2.9.1 The components of every exterior wall of a building or an accessory structure, and the exterior wall shall be maintained in good repair; weather tight; free from loose or unsecured objects or materials; so as to prevent entrance of insects or rodents; so as to prevent deterioration due to weather, insects and animals; so as to prevent deterioration detrimental to the appearance of the building.

2.9.2 Exterior columns and beams shall be maintained in a good state of repair and any decorative trim shall be maintained in a safe condition.

2.10 EXTERIOR DOORS, WINDOWS AND OTHER OPENINGS

2.10.1 Shutters, doors, hatchways and all other exterior openings in a building or an accessory structure shall be kept weather-tight and reasonably draft free.

2.10.2 Glazed doors, windows and other transparent surfaces shall be kept reasonably unobstructed so as to permit unimpeded visibility and unrestricted passage of light.

2.10.3 Nothing in this by-law shall be construed as preventing doors, windows and other openings in an unoccupied building or accessory structure from being protected from damage or to prevent entry, for such time as a building or accessory structure remains unoccupied.

2.10.4 Materials used for protection in this by-law, shall be afforded an application of paint, varnish or other approved colouring or preservative on the exterior, to maintain an appearance commensurate with the surrounding environment.

2.11 EXTERIOR STAIRS, VERANDAS, PORCHES, DECKS, LOADING DOCKS AND BALCONIES

2.11.1 Every exterior stair, veranda, porch, deck, loading dock, balcony and every appurtenance attached thereto shall be maintained, reconstructed or repaired so as to be safe to use and capable of supporting the loads to which it may be subjected, as specified in the Building Code, and shall be kept in sound condition and good repair, free of all accident hazards and other deterioration or objects detrimental to the appearance of the building or accessory structure.

2.12 ROOFS AND ROOF STRUCTURES

2.12.1 The roof of a building or accessory structure shall be weather tight and free from leaks; loose or unsecured or unsafe objects and materials; all other accident and fire hazards; dangerous accumulation of ice and snow and other unsightly objects and conditions detrimental to the appearance of the building.

2.12.2 Roof decks and related guards shall be kept in a good state of repair:

- a) The drainage from all roof surfaces shall discharge into a eavestrough or roof gutter and thence to a down pipe:
- b) Every eavestrough, roof gutter and downpipe shall be kept:
 - i. in good working order;
 - ii. water tight and free from leaks;
 - iii. free from health and accident hazards;
 - iv. protected by painting or the applying of other equivalent preservative.
- c) Chimneys, smoke or vent stacks and other roof structures shall be, maintained plumb and in good repair so as to be free from:
 - i. loose bricks, mortar and loose or broken capping;
 - ii. loose or rusted stanchions, guy wires, braces and attachments;
 - iii. any fire or accident hazard;
 - iv. unsightly objects and conditions detrimental to the appearance of the building.

2.13 EXTERIOR MAINTENANCE

2.13.1 Appropriate measures shall be taken to remove any objectionable markings, stains or other defacement, occurring on the exposed finished exterior surfaces and, where necessary, to restore the surface and adjacent areas to, as near as possible, their appearance before the markings, stains or defacement occurred.

- 2.13.2 In the event of fire or other disaster, measures shall be taken as soon as possible to make the damaged building or accessory structure compatible with its environment. Without restricting the generality of the foregoing, such measures include:
- a) making the building or accessory structure safe;
 - b) repairing of damaged surfaces exposed to view;
 - c) cleaning any damaged surfaces exposed to view;
 - d) refinishing so as to be in harmony with adjoining undamaged surfaces and the general environment.
- 2.13.3 In the event the building or accessory structure is beyond repair a demolition permit is to be issued and , the land shall then be cleared of all remains and left in a graded level and the site shall be left in a safe and clean condition. All utilities to be disconnected prior to demolition.
- 2.14 SIGNS
- 2.14.1 Signs and sign structures shall be maintained:
- a) so as not to cause any unsafe condition
 - b) in a vertical plane unless otherwise erected and approved. in which case such sign shall be maintained as erected and approved;
 - c) without any visible deterioration of the sign and its structure when viewed from any premises other than the premises on which the sign is situated;
 - d) as may additionally be required by the Sign By-law, if applicable, of the municipality.
- 2.14.2 Signs and sign structures that are discarded or unused shall be removed from the premises.
- 2.15 FENCES
- 2.15.1 A fence on a premises or separating adjoining premises shall be kept or separating adjoining
- a) in a structurally sound condition and plumb, unless specifically designed to be other than vertical;
 - b) in good repair and free of accident hazards; so as not to present an unsightly appearance.
- 2.16 PREVENTION OF PONDING
- 2.16.1 Exterior property areas shall be graded and maintained in such a manner as to prevent the excessive or recurrent ponding of storm water thereon, and shall be cultivated or protected with a suitable ground cover to prevent erosion of the soil. All catch basins and swales shall be installed and maintained in a fashion impeding the natural flow of water.
- 2.16.2 Eavestrough and downspouts shall be installed on all buildings. All downspouts shall have extensions that extend a minimum 1.5m away from the foundation. It is also the responsibility of the owner to maintain all downspouts and to ensure that no subsequent modification to the grading of the lot are made which will adversely affect the drainage of adjacent lots.
- 2.17 SURFACE RUNOFF
- 2.17.1 If surface water run-off must traverse onto private property before it reaches a positive downstream outlet, written permission of the affected private property owner to receive the surface run-off water must be submitted with the application. The acceptance by the private property owner would have to be in perpetuity.
- 2.18 STORM WATER
- 2.18.1 The storm water run-off from all downspouts of impervious surfaces shall be contained within the limits of the premises from which it originated until

absorbed by the soil or drained or to a natural or artificially created swale or watercourse. The drain shall be extended to take the storm water runoff from all roof and other artificially-created impervious surfaces, except that the aforementioned may be omitted if appropriate measures are taken to ensure that such storm water run-off is self-contained on the premises, as heretofore described, and further that said storm water will not collect thereon in such a manner as to endanger or create a nuisance to persons on or adjacent to the premises.

2.19 VACANT BUILDINGS / DAMAGED BUILDINGS / FIRE DAMAGED BUILDINGS

2.19.1 Where any building is vacant or unoccupied, the owner shall protect such building against the risk of accident or intentional damage to the property, or such damage as may be caused to other properties, arising from the entry of unauthorized persons to the building, by effectively preventing entrance by unauthorized persons.

2.19.2 Any such work required within this By-law shall be done in compliance with the Building Code, other applicable codes and by-laws, including but not limiting the generality of the foregoing, in compliance with the requirement for obtaining building or demolition permits, and with the by-laws applicable to demolition and clearing of property.

2.19.3 Where a building is damaged by accident, storm, neglect or other causes or intentional damage; or where the doors, windows, hatches and other openings through which entry may be obtained are required to be kept in good repair and secured from unauthorized entry; the owner shall protect the building against further risk of further damage, accident or other danger, and shall effectively prevent entrance thereto by all unauthorized persons, by closing and securing opening to the building with:

- a) boarding which completely covers the opening with at least 12.7mm (0.5 in.) weatherproofed sheet plywood securely fastened to the building;
- b) bottom of form ;
- c) rigid composite panels, securely fastened to the building;
- d) Sheathing boards installed within the reveal of the exterior cladding and securely fastened to the building;
- e) brick and mortar securely fastened to the building; or
- f) concrete blocking and mortar securely fastened to the building.

2.19.4 The options available as mentioned above in section 2.19.3 shall be considered progressively more secure with (e) being the most secure, and the minimum standard imposed by this section shall be considered not to include the use of a less secure option which has, more than once, failed to exclude unauthorized entry, and further where the owners control, attendance or lack of security measures to protect the property suggest a more secure option be used, then the owner shall supply such measure including such improved security of closures as may be necessary beyond the options listed in section 2.19.3.

2.19.5 Where a building remains vacant for a period of more than ninety (90) days, the owner shall ensure that all utilities serving the building, which are not required for the safety or security thereof, are properly disconnected or otherwise secured, to prevent accidental or malicious damage to the building or adjacent property.

2.19.6 The exterior walls and other surfaces of the building that have smoke damage or other defacement shall be removed and the surfaces refinished.

2.19.7 Fire damaged buildings shall be kept clear of all garbage, refuse and debris and shall have all water, electrical and gas services turned off except those services that are required for the security and maintenance of the property.

2.19.8 The owner of the fire-damaged building shall restore the building to meet the requirements of the Ontario Building Code and/or this by-law.

- 2.19.9 When the fire-damaged building or part is occupied again for other than the purpose of repair, the condition of the building and property shall be brought into compliance with the Ontario Building Code and/or all applicable sections of this by-law.
- 2.20 YARDS
- 2.20.1 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 or an unsafe condition.
- 2.20.2.1 No vehicle or accessory thereto or remnant or part thereof, or mechanical equipment which is in a wrecked, discarded, dismantled, inoperative or abandoned condition shall be parked, placed, stored or left in a yard.
Except for the following exceptions:
- a) If the vehicle is licensed and is under repair, and shall be allowed to remain for a period not greater than six (6) months.
 - b) If the vehicle remains in a moveable condition and does not pose an environmental hazard, and is fully covered with a canvas or similar opaque, weather-resistant tarpaulin in good repair.
- 2.20.2 All yards shall be provided with suitable ground cover to prevent instability and erosion of the soil.
- 2.20.3 Yards shall be maintained in compliance with this by-law, and all other growth, plantings and hedges shall be kept trimmed so as not to encumber or encroach upon public or private walks and driveways, and further every yard and vacant property shall be kept free of noxious weeds as provided by the *Weed Control Act*, R.S.O. 1990, Chapter W.5 and amendments thereto and the regulations or by-laws made thereunder.
- 2.20.4 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.
- 2.20.5 A well, cistern, cesspool, privy vault, pit or excavation shall be permanently sealed and/or secured as required to prevent the hazard.
- 2.20.6 The water in any privately owned swimming pool shall be kept clean and in a sanitary condition free from obnoxious odours and (conditions likely to create a breeding environment for insects.
- 2.20.7 Storage, salvage, and scrap yards, whether licensed or not, shall be effectively screened from all other property or streets with a visual barrier. Materials or matter of any kind stored or located in such yards shall not be piled within 1 meter (39 inches) of such visual barrier, unless such visual barrier is capable of sustaining any horizontal load which may be imposed upon it by the stored materials without collapsing or leaning over adjacent property.
- 2.20.8 Trees or parts thereof that have expired shall be removed or maintained in a condition which is not hazardous to persons expected to be on or about the property.
- 2.21 EXTERIOR PROPERTY REQUIREMENTS
- 2.21.1 Exterior property areas shall be kept in a neat and tidy condition, and free from:
- a) rubbish, garbage, brush, waste, litter and other debris;
 - b) injurious insects, termites, rodents, vermin and other pests;
 - c) noxious weeds and excessive growths of other weeds and grass;
 - d) unsightly and unreasonably overgrown, in relation to their environment, ground cover, hedges and bushes;
 - e) dead, decayed, or damaged trees, or other natural growth and the branches and limbs thereof which creates an unsafe or unsightly

condition;

- f) wrecked, dismantled, inoperative, discarded, unused or unlicensed vehicles or trailers, except in an establishment licenced or authorized to conduct and operate such a business, and then only in an arrangement such as to prevent an unsafe condition or an unsightly condition out of character with the surrounding environment;
- g) machinery or any parts thereof, or other objects or parts thereof, or accumulations of material or conditions that create an unsafe condition or an unsightly condition out of character with the surrounding environment; or
- h) dilapidated or collapsed structures or erections and any unprotected well or other unsafe condition or unsightly condition out of character with the surrounding environment.

2.21.2 Suitable ground cover shall be provided to prevent erosion of the soil.

2.21.3 Hedges, planting, trees or other landscaping, required by the Municipality as a condition of site development, redevelopment or rearrangement, shall be maintained in a living condition or shall be replaced' with equivalent landscaping, so as to carry out their intended function and maintain an attractive appearance.

2.22 BUFFERING

2.22.1 Premises which, because of their use or occupancy, or for other reasons, create a nuisance to adjacent premises or to the neighbourhood or to users of streets or parks, shall be buffered from such premises or public areas so as to minimize the effect of the:

- a) provisions and maintenance of an effective barrier to prevent lighting and vehicle headlights from shining directly into a residence unit;
- b) provision and maintenance of an effective barrier to prevent windblown waste, wrappings, debris and the like from encroaching on the adjacent premises;
- c) provision and maintenance of a visual screen, appropriate to the nature of the adjacent use, to minimize the visual impact of nuisances to persons at grade on or adjacent to the property.

3. LOT GRADING

3.1.1 The implementation of Lot Grading is necessary to ensure that all aspects of water control including environmental impact on receiving waters are considered when planning drainage of storm water from developed lands.

3.2 OBJECTIVE

3.2.1 The reasons for considering Lot Grading are:

- a) to minimize the possibility of injury and property damage resulting from floods exceeding the capacity of the drainage;
- b) to minimize the detrimental effects of development on the quality of waters in stream and lakes; and
- c) to delay and/or minimize runoff and thus permit reduction in flooding and erosion control works downstream.

3.2.2 The Chief Building Official and/or the Manager of Operations retains the right to request the proponent making grade changes and/or building improvements to a property, to provide detailed site drainage plan. A lot grading plan is required for all landscaping changes that significantly change the drainage characteristics of a property. Areas that may be sensitive to drainage problems such as erosion, flooding and freeze-over will require approval prior to construction.

3.2.3 Prior to the issuance of building permits for new structures, site-grading plans shall be approved by the Chief Building Official and/or the Manager of Operations. These plans must indicate the location of proposed buildings, structures, accesses, site drainage and existing and proposed grades.

3.2.4 All lot grading matters/concerns that may arise will be the responsibility of the property owner. It will be the responsibility of the property owner to resolve any lot grading concerns/issues that may arise. The Municipality may facilitate a resolution on behalf of either adjacent or downstream affected property owners.

3.3 DRAINAGE MAINTENANCE

3.3.1 Since basement backfill settlements can be expected to occur over several years after construction, it is the responsibility of the owner to repair any settlement in order to maintain positive drainage away from the home at all times.

3.4 LOT GRADING PLAN

3.4.1 As a part of the application for a building permit for a new house, the owner/applicant must submit a Lot Grading Plan showing how positive drainage of surface water run-off from the lot will be provided and without adversely affecting adjacent properties.

3.4.2 A Lot Grading Plan is deemed to be approved when it meets the requirements of this By-law and has been approved by the Chief Building Official and/or Manager of Operations.

3.4.3 All development shall be designed to minimize the possibility of backup of the minor storm system into any foundation drainage system and to provide for the safe overland flow for all storm water

3.5 REQUIREMENTS OF A LOT GRADING PLAN

3.5.1 The lot grading plan shall show details of the grading of the lot shall include and shall be submitted, to the Municipality at the time the construction drawings are submitted for review:

- a) All existing natural drainage courses on the land to be developed;
- b) Existing elevations at each lot corner and at the centre of the lot and;
- c) Proposed new elevations as follows:
- d) Finished road elevations and grades Finished grade elevations at all lot corners and at the building that is proposed for the lot.
- e) Elevations at appropriate locations around the building are required for split or multi-level buildings.
- f) Finished grade spot elevations along all drainage swales and at each new and existing culvert within the drainage swales.
- g) Grading details for the lot to show how rear yard drainage will be directed around the proposed building to the street or adjacent property.
- h) Details for all drainage facilities, which will be, constructed on the lot and the size and location of all proposed drainage easements.
- i) The location of the proposed septic field shall be shown along with the proposed design finished grade elevation of the septic field.
- j) The location of the Geodetic Datum used as a reference point for elevations on the lot-grading plan shall be shown on the lot-grading plan if possible or an assumed elevation can be related to the main highway or road.
- k) The recommended average slope or rear yard surfaces shall not exceed 10% and shall be measured by dividing the elevation difference by the distance using the following three measurement:
- l) Between the rear of the building and the rear lot line Between the rear of the building and the centre line of the rear swale and From the side lot line to the side lot line on the opposite side of the lot.
- m) The measurement giving the steepest grade shall govern.
- n) A civil engineer shall examine extreme natural terrain elevations that exceed the recommended grades to ensure appropriate stability and erosion control.

- 3.5.2 The grade difference in the rear yard shall be taken up by the use of grading as follows:
- a) Generally the slope of the rear yard shall be between 1 ½ % and 5% to maximize the useable area of the rear yard;
 - b) Slopes shall be 1:2 maximum at the extremities of the property when matching surrounding lands and;
 - c) Retaining walls shall be used to reduce the grade differential to an acceptable amount wherever the finished grade between two adjacent properties exceeds 400 mm unless approved by the Municipality or where erosion of soil may occur.
 - d) The desirable depth of a drainage swale is 200mm – 250mm. Minimum depth shall be 50 mm and the maximum depth shall be 300mm or as recommended by the engineer.
 - e) The drainage flows which carry around structures shall be contained in defined swales located as far from the structure as practical and follow the property lines where possible.
 - f) The type of construction for each structure on a lot shall be determined by the type of grading which is allowed by the topography of the land.
 - g) A plan of the development showing the major/minor storm systems including all water courses, contributing areas, outfalls, as well as the major storm route and all drainage easements/rights-of-way.
 - h) The design brief shall include a statement of adequacy stamped by the qualified engineer certifying the design of the storm management system(s) is in accordance with good engineering practice in accordance with the Ministry of the Environment (MOE) Guidelines and that the storm management systems(s) will adequately handle a storm, which is equivalent to the design storm intensity.
- 3.5.3 Occupancy Permit In Accordance With Lot Grading Plan
- 3.5.4 Consistent with the Building By-law, no Occupancy Permit shall be issued unless the lot grading is in accordance with the Lot Grading Plan as approved by the Chief Building Official and/or the Manager of Operations and the requirements of this by-law have been met.
- 3.5.5 An Occupancy Permit may be issued prior to completion of the Lot Grading where the Owner/Applicant agrees to a security deposit in the amount of \$500 in a form acceptable to the Municipality which shall be returned to the applicant upon completion lot grading. If the Owner/Applicant fails to complete the Lot Grading within the nine month period, the Municipality shall be entitled to undertake the completion of work and all costs incurred in so doing shall be recovered from such security. Where the amount recovered from such security is not sufficient to cover the cost of completing the work, the Applicant shall be responsible to pay the amount of the deficiency to the Municipality immediately upon demand.

PART 3

4. ADMINISTRATION AND ENFORCEMENT

4.1 GENERAL

- 4.1.1 Council shall assign a Property Standards Officer(s) as being responsible for the administration and enforcement of this by-law.
- 4.1.2 The Chief Building Official appointed pursuant to the *Building Code Act*, 1992, is hereby assigned the responsibility of administering and enforcing those sections of the By-law that are applicable to the Building Code, an Act, and may so assign duties to such persons, officers and inspectors as necessary to carry out the provisions of this by-law and applicable provisions of the *Building Code Act*.
- 4.1.3 Persons appointed or assigned for the purposes of enforcing or administering this by-law are property standards officers, and have the authority to carry out the duties assigned to officers under this by-law and

the *Building Code Act*, and may enforce the provisions of this by-law and the applicable sections of the *Building Code Act*.

4.2 RIGHT TO ENTER AND INSPECT

4.2.1 Where a by-law under Section 15.1 of the *Building Code Act*, 1992 is in effect, an officer acting under this by-law or any person acting under his or her instructions may, at any reasonable time, and upon producing proper identification, enter upon any property without a warrant for the purpose of inspecting the property to determine:

- a) whether the property conforms with the standards prescribed in the by-law, or
- b) whether an order made under this by-law has been complied with.

4.2.2 Notwithstanding the above, a Property Standards Officer shall not enter or remain in 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 warrant issued under this *Act*.

4.3 ORDERS

4.3.1 A Property Standards Officer is hereby authorized to give immediate effect to any order that is confirmed or modified as final and binding under section 15.3(7) of the *Building Code Act*, 1992 so as to provide for:

- a) repair of the property; or
- b) clearing of all buildings, structures or debris from the site and leaving the site in a graded and leveled condition, where the cost of doing the work does not exceed \$20,000.

4.4 PROPERTY LIENS

4.4.1 Where the cost of doing the work exceeds \$20,000, the Chief Building Official shall seek the authorization from Council to carry out the requirements of the order.

4.4.2 Upon completion of the work, repairs or demolition by or behalf of the Municipality, the municipality shall have a lien on the land for the amount spent on the repair or demolition, and the amount shall be deemed to be municipal real property taxes and may be added by the clerk of the municipality to the tax roll and collected in the same manner and with the same priorities as municipal real property taxes as provided for by statute.

4.5 COMPLIANCE

4.5.1 All owners or occupants of property shall comply with the standards prescribed in this by-law and any Property Standards Order as confirmed or modified and/or operated to comply as issued by the Property Standards Officer and/or the Chief Building Official.

4.5.2 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. All new construction and repairs shall conform to the Ontario Building Code, Ontario Fire Code or any other relevant legislation, where applicable.

4.5.3 The owner or occupant of a property shall:

- a) Comply with all standards prescribed in this By-law.
- b) Not permit any person to use or occupy any property owned, managed or controlled by that person unless such property conforms to the standards prescribed in this Bylaw.
- c) Comply with any final and binding order of the Property Standards Officer.
- d) Produce documents or things requested by the inspector for inspection as relevant to the property 01- any part thereof, allow the removal of such documents or things for the purpose of making copies, provide

information or assist in the collection of information from other persons concerning a matter related to the property or part thereof, allow entry by the inspector or such persons as needed to carry out an inspection or test or in aid thereof, permit examination, tests, sampling or photographs necessary for the purposes of an inspection or in aid thereof, and provide at their expense when requested, tests and samples as are specified in an order, all as may aid or assist in the carrying out of an inspection and determination of compliance with this by-law and the relevant portions of the *Building Code Act*.

- e) Ensure, that in complying with this by-law, and in carrying out work required under an order or other obligation under the by-law, that the property and activities shall be kept and carried out in a condition and manner that avoids conditions dangerous to the owner, occupants or visitors to the property or which put at risk of injury or health such persons, and giving adequate warning where such risks cannot be so avoided so as to allow such persons to avoid the danger or risks.

4.6 PROOF OF COMPLIANCE

- 4.6.1 A person affected by a property standards order may seek to have compliance with an outstanding order determined by supplying such proof as may allow compliance to be determined or permit or arrange for an inspection of the property by an officer, and shall be liable to pay any applicable fees, charges or expenses.

- 4.6.2 Where the proof submitted in (2) is insufficient for the officer to determine compliance of the property with the order or part of the order, the person shall, subject to the Building Code, permit or arrange for a reasonable and timely inspection by the officer to determine compliance or that the proof submitted confirms compliance.

- 4.6.3 Where an officer determines there is compliance under this by-law with an order issued and registered on the title to a property, the order shall be discharged from the title.

4.7 NOTICE OF VIOLATION

- 4.7.1 If, after inspection, an officer is satisfied that in some respect the property does not conform with the standards, he or she may issue an order to the owner and such other persons affected by it as the officer determines and a copy of the order may be posted on the property.

4.8 CONTENTS OF AN ORDER

- 4.8.1 An officer who finds that a property does not conform with any of the standards prescribed in the by-law may make an order:
 - a) stating the municipal address or the legal description of the 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.

4.9 SERVICE AND POSTING OF ORDER

- 4.9.1 The order shall be served on the owner of the property and such persons affected by it as the Officer determines and a copy may be posted on the property.

4.10 PROPERTY STANDARDS COMMITTEE

4.10.1 A committee to be known as The Property Standards Committee of the Municipality of Shuniah is hereby established.

4.10.2 The Property Standards Committee for the Municipality of Shuniah shall consist of not less than three (3) residents or property owners in the Municipality that are appointed by Council, with a 3-year term. The members of the Committee shall hold office until their successors have been appointed. Any vacancy on the Committee shall be filled forthwith.

4.11 APPEAL OF ORDER

4.11.1 An owner or occupant who has been served with an order made under this by-law, 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 committee within 14 days after being served with the order.

4.11.2 An order that is not appealed within 14 days after being served with the order shall be deemed to be confirmed.

4.11.3 If an appeal is taken, the 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;
- b) extend the time for complying with the order if, in the committee's opinion, the general intent and purpose of the by-law and of the official plan or policy statement are maintained.

4.11.4 The municipality in which the property is situate or any owner or occupant or person affected by a decision made by the Property Standards Committee may appeal to the Superior Court of Justice by notifying the clerk of the municipality in writing and by applying to the court within 14 days after a copy of the decision is sent.

4.11.5 A Judge of the Superior Court of Justice shall appoint, in writing, a time and place for the hearing of the appeal and may direct in the appointment the manner in which and upon whom the appointment is to be served.

4.11.6 An order that is deemed to be confirmed or modified by the Committee or Judge, 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.

4.12 REGISTRATION OF ORDER

4.12.1 The order may be registered in the proper 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 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 and, when the requirements of the order have been satisfied, the clerk of the municipality shall forthwith register in the proper land registry office a certificate that such requirements have been satisfied, which shall operate as a discharge of the order.

4.12.2 When the requirements of the order have been satisfied, the Clerk of the Municipality shall forthwith register in the Land Registry or Land Titles Office a certificate that such requirements have been satisfied, which shall operate as a discharge of such order.

4.13 OFFENCES

4.13.1 Every person who contravenes or fails to comply with a final order that is deemed to be confirmed or modified has committed an offence and upon

conviction may be liable to a fine provided for in Schedule "A" to this By-law, pursuant to the *Provincial Offences Act*, R.S.O. 1990, c. P. 33

4.14 POWER OF MUNICIPALITY TO REPAIR, DEMOLISH, & CLEAN-UP

4.14.1 If the owner or occupant of a property fails to repair or to demolish the property in accordance with an order as confirmed or modified, the Municipality in addition to all other remedies:

- a) may repair or demolish the property;
- b) may clear the site of all buildings, structures, debris or refuse and leave the site in a graded and leveled condition; or
- c) may make the site safe or impede entry by erecting fences, barricades or barriers.

4.14.2 A Property Standards Officer(s) and agents employed by the Municipality may from time to time enter in and upon the property.

4.14.3 Any debt due to the Municipality under this By-law maybe recovered from the Owner by action or by adding the debt to the tax roll and collecting it in the same manner as taxes.

4.14.4 Despite Section 31(2) of the *Building Code Act*, 1992, the Municipality or an officer acting on its behalf shall not be liable to compensate the owner, occupant or any other person having an interest in the property by reason of anything done by or on behalf of the Municipality in the reasonable exercise of its powers under the provisions of this section.

4.15 CERTIFICATE OF COMPLIANCE

4.15.1 Every property owner may make an application to the Municipality for a certificate of compliance by completing and signing an application on the form available at the offices of the Chief Building Official, and paying the applicable fee.

4.16 FEES

4.16.1 For compliance inspection: Where a property standards order has been registered, an owner or occupant may apply for an inspection of the property in respect of the order and shall pay a fee of \$200.00 at the time of the inspection, which fee includes the registration of a discharge where compliance with the order is found.

4.16.2 A fee of Fifty Dollars (\$50.00) shall be payable to the Corporation of the Municipality of Shuniah prior to the issuance of a Certificate of Compliance where it is issued at the request of the owner.

5. GENERAL PROVISIONS ENACTMENT AND REPEALS

5.1.1 Nothing in this By-law shall exempt any person from complying with any other by-law or requirement of the Municipality, or from obtaining any license, permission, permit, authority or approval required by any other by-law of the Municipality or statute or regulation of the Province of Ontario.
CONFLICT

5.1.2 If a provision of this By-law conflicts with any provision of another by-law in force within the Municipality of Shuniah, or any statute or regulation of the Province of Ontario the provisions that establish the higher standards or those to protect the health, safety and welfare of the general public shall prevail.

5.1.3 If any section, subsection, paragraph, sentence, clause, or provision of this By-law be declared by a Court of competent jurisdiction to be invalid, illegal or ultra vires for any other reason, all other provisions of this By-law shall remain and continue in full force and effect and shall remain valid and binding.

5.2 SCHEDULES

5.2.1 Schedule "A" shall become an integral part of this By-law

5.3 ENACTMENT

5.3.1 This By-law shall come into force and take effect on:
a) Schedule "A" to this By-law being forwarded to and approved by the Senior Regional Justice of the Ontario Court of Justice;
b) The Third and Final reading thereof.

5.4 REPEALS

5.4.1 Upon passage of this By-law the following is hereby repealed:
a) By-law No. 2330-08.

READ A FIRST AND SECOND TIME THIS 27th DAY OF SEPTEMBER 2010

"Ab Covello"
Acting Reeve

"Wendy Hamlin"
Clerk

READ A THIRD TIME AND FINALLY PASSED THIS 8th DAY OF Nov. 2010

Nora Harding
Reeve

Wendy Hamlin
Clerk

MUNICIPALITY OF SHUNIAH

PART 1 PROVINCIAL OFFENCES ACT

**SCHEDULE “A”
to By-law No. 2499-10 Being a by-law
prescribing standards for the maintenance
and occupancy of property**

Item	Short Form Wording	Provision Creating or defining offence	Set Fine
1.	Fail to comply with an order deemed to be confirmed or modified	Section 4.11.6	275.00

Note: the general penalty provision for the offences listed above is section 4.13 of bylaw 2499-10, a certified copy of which has been filed.