

Corporation of the Township of

Algonquin Highlands

BY-LAW 2018-109

BEING A BY-LAW TO AMEND BY-LAW 2018-35, BEING A BY-LAW TO IMPLEMENT A SEWAGE SYSTEM RE-INSPECTION PROGRAM.

WHEREAS the regulatory power to trespass on private property is given under Section 15.9 (1) “Inspection of an Unsafe Building” in the Ontario Building Code Act (OBCA), 1992, S.O. 1992, c. 23, as amended (the “Act”).

AND WHEREAS Section 15.10.1 of the “Act” allows an inspector to enter upon land and into buildings at any reasonable time without a warrant for the purpose of conducting a maintenance inspection;

AND WHEREAS in accordance with section 436(1) of the Municipal Act, 2001, S.O. 2001, an officer may enter upon land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the provisions of this By-law are being complied with;

AND WHEREAS the authority for (sewage system) maintenance inspections are under the provisions of the Section 15.10.1 of the “Act”;

AND WHEREAS, Section 7(1) (b.1) of the “Act”, authorizes the council of a municipality to pass by-laws establishing and governing sewage system maintenance inspection programs in accordance with Division C, Part 1, Section 1.10.1 of the “Act” – Ontario Regulation 332/12 as amended (the “Building Code”) hereby referred to as a “discretionary maintenance inspection program”;

AND WHEREAS, Section 10.1 of the “Act” prescribes that no person shall operate or maintain a sewage system or permit a sewage system to be operated or maintained except in accordance with the “Act” and the “Building Code”;

AND WHEREAS, Section 10(2) of the Municipal Act, 2001, as amended, provides the ability for a municipality to pass by-laws relating to the health, safety and well-being of persons and Section 391 regarding fees and charges for the services;

AND WHEREAS the intention of a sewage system re-inspection program is to identify and resolve hazards associated with malfunctioning sewage systems;

AND WHEREAS the long-term goal of this program is to monitor sewage systems and prevent contamination to groundwater, watercourses, etc., to increase property owner awareness of the location and condition of their sewage systems; and to increase education on the proper operation and maintenance of sewage system(s);

AND WHEREAS the Council of the Township of Algonquin Highlands deems it expedient to implement a sewage system re-inspection program in the Township of Algonquin Highlands;

NOW THEREFORE, the Township of Algonquin Highlands enacts as follows:

1. That the Building and By-law Enforcement Department be authorized by the Council of the Township of Algonquin Highlands to implement a Sewage (Septic) System Re-inspection Program in the Township of Algonquin Highlands.
2. That a sewage system re-inspection fee be invoiced by the Township and payable by each affected property owner. If not paid, the Township will add the cost of the sewage system inspection fee to the property owner’s tax bill. This fee will be collected in the same manner as the municipal property taxes.

3. That the geographic areas of the Township scheduled for re-inspection be established on Schedule "A" attached hereto and forming part of this by-law.
4. That the Sewage System Re-inspection Program within the Township of Algonquin Highlands shall be hereinafter referred to as the "Septic System Re-inspection Program".
5. That the terms and conditions of the Septic System Re-inspection Program be established on Schedule "B" attached hereto and forming a part of this by-law.
6. That any by-laws inconsistent with this by-law are hereby rescinded and repealed.
7. That By-law 2018-35 be repealed.
8. That this by-law shall come into full force and effect upon the final passing hereof.

READ A FIRST, Second and Third time and finally passed this 15th day of November 2018.

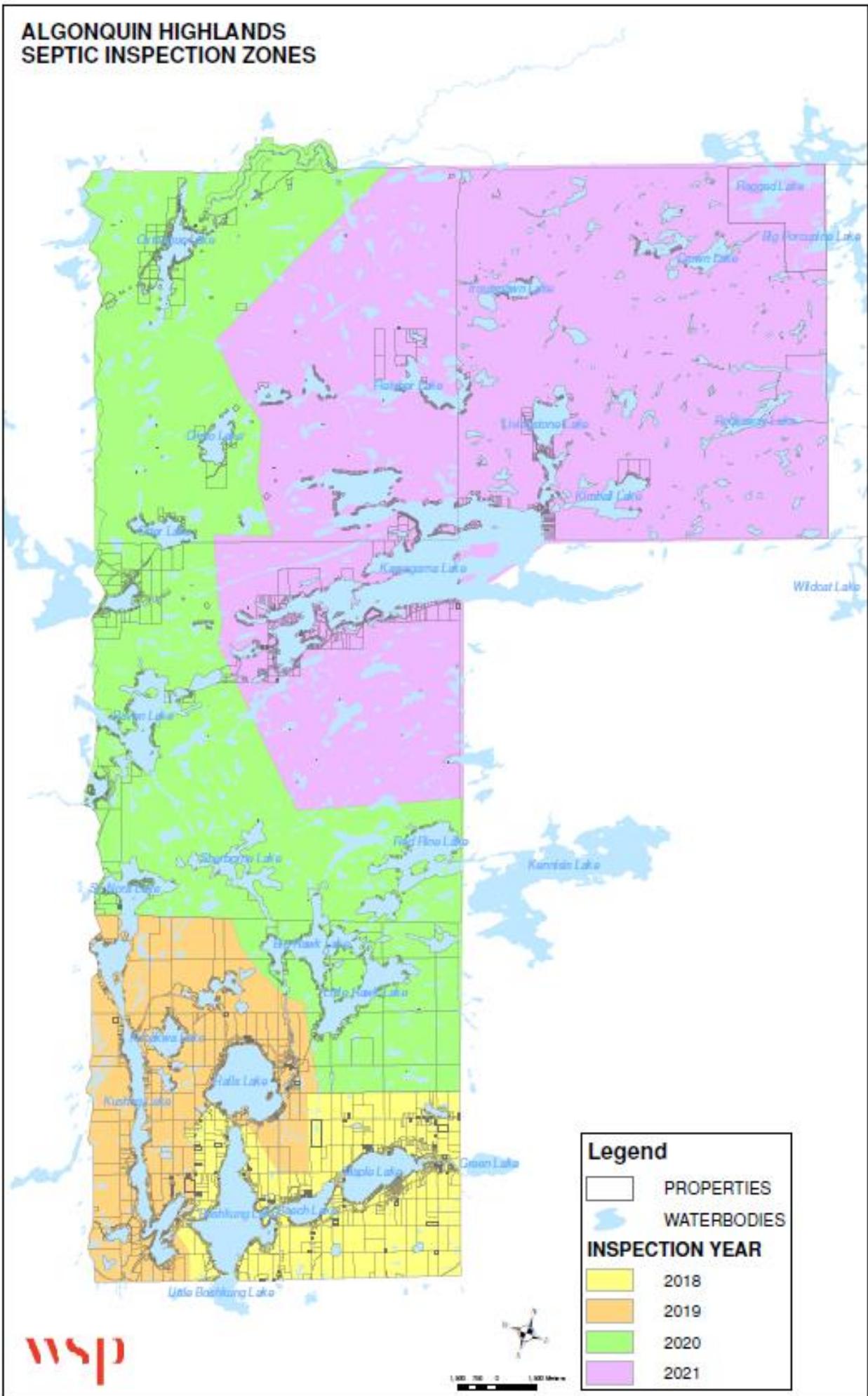
Mayor Carol Moffatt

Seal

Clerk Matt Gower

SCHEDULE 'A' TO BY-LAW 2018-35

Location of Lands Affected by the Septic System Re-Inspection Program



SCHEDULE 'B' TO BY-LAW 2018-35

TERMS AND CONDITIONS OF THE SEPTIC SYSTEM RE-INSPECTION PROGRAM

1. DEFINITIONS

For the purpose of this by-law;

- 1.1. "Act" means the Building Code Act, 1992, S.O. as amended.
- 1.2. "Building" has the same meaning as provided for in the Act.
- 1.3. "Building Code" means Ontario Regulation 332/12 as amended or as regulations made under Section 34 of the Act which may include a more recent revision or amendment.
- 1.4. "Building Inspector" means an Inspector appointed under Section 3 of the Act and having jurisdiction for the enforcement of this Act, the Building Code and this By-law.
- 1.5. "Chief Building Official" means the Chief Building Official appointed under Section 3 of the Act and having jurisdiction for the enforcement of the Act, the Building Code and this By-law. A Chief Building Official is deemed to also be a Building Inspector in accordance with the Act.
- 1.6. "Officer" means a By-law Enforcement Officer, Building Inspector, Chief Building Official or other person appointed by by-law to enforce provisions of this by-law.
- 1.7. "Property owner" means, in respect of the property subject to the re-inspection, the registered owner, a lessee and a mortgagee in possession.
- 1.8. "Township" means The Corporation of the Township of Algonquin Highlands.
- 1.9. "Sewage System" means,
 - 1.9.1. Class 1 sewage system including a chemical toilet, an incinerating toilet, a recirculating toilet, a self-contained portable toilet and all forms of privy, including a portable privy, an earth pit privy, a pail privy, a privy vault and a composting toilet system,
 - 1.9.2. Class 2 sewage system also called a greywater system,
 - 1.9.3. Class 3 sewage system also called a cesspool,
 - 1.9.4. Class 4 sewage system also called a leaching bed system or septic system, or
 - 1.9.5. Class 5 sewage system which is a system that requires or uses a holding tank for the retention of hauled sewage at the site where it is produced before its collection by a hauled sewage system, where these,
 - have a design capacity of 10,000 litres per day or less,
 - have, in total, a design capacity of 10,000 litres per day or less, where more than one of these are located on a lot or parcel of land, and

- are located wholly within the boundaries of the lot or parcel of land on which is located near the building or buildings they serve.

1.10. Any word or terms not defined in this By-law shall have the meaning as ascribed in the Act or Building Code. Terms not defined in the Act or Building Code shall have the same meaning as described in a standard Canadian dictionary.

1.11. Whenever any reference is made in this By-law to a statute of the Legislature of the Province of Ontario, such reference shall be deemed to include all subsequent amendments to such statute and all successor legislation to such statute.

2. ADMINISTRATION OF THE PROGRAM

2.1. A letter will be sent out to the ratepayers of the Township of Algonquin Highlands that will inform them of:

2.1.1. The potential value of the program;

2.1.2. The scope of work that will be completed;

2.1.3. Follow up options for those sewage systems that exhibit deficiencies;

2.1.4. Information regarding the public information session that will be held; and,

2.1.5. Any other information deemed appropriate by the Township and/or WSP Canada Inc.

3. INSPECTOR

3.1. The Township will retain WSP Canada Inc. to implement the Septic System Re-inspection Program and shall be appointed by the Township of Algonquin Highlands as Building Inspectors (Sewage Systems) in accordance with Section 3 of the Act and having jurisdiction for the enforcement of this Act, the Building Code and this By-law.

4. PROPERTIES TO BE INSPECTED

4.1. The Township will focus on **the Discretionary Maintenance Inspection Program.**

4.2. Certain geographical areas within the Township will be inspected by year in accordance with the colour coded legend as contained in Schedule "A" of this By-law.

4.3. All sewage systems in the Township of Algonquin Highlands are subject to the Septic System Re-inspection Program.

4.4. A letter will be sent by WSP to the property owner in the targeted area for them to call the consultant and book an inspection.

4.5. The property owner (or designate at least 18 years old) is required to be present during the inspection.

5. DEFERRAL (EXEMPTION) OF RE-INSPECTION

- 5.1. Re-inspection of an existing sewage system that has been installed and/or inspected within five years from the year in which the system is to be inspected under the Septic System Re-inspection Program, will be deferred until the system is older than five years. Copies of permits and inspection records will be required in order to qualify for the deferral.

6. CERTIFICATE AS ALTERNATE TO MAINTENANCE INSPECTION BY THE TOWNSHIP

- 6.1. The Township may accept third party certification as an alternative of conducting an inspection provided the requesting owner notifies the Township in advance and in writing that they have retained a third party for this purpose within specified times;
- 6.2. A third party certification may be accepted provided such certification is presented on prescriptive forms attached as Appendix "A" to Schedule "B" to this by-law and in accordance with the Act and Division C, Part 1, Section 1.10.1.3 of the Ontario Building Code; and,
- 6.3. Any individual undertaking third party certification shall be qualified for such assessment and shall not have any conflicts of interest as identified under the Act or Ontario Building Code.

7. INSPECTION FEE

- 7.1. An inspection fee of \$179.11 will be invoiced to each property owner after completion of their inspection. If this fee is not paid **within 30 days**, it will be added to the property owner's tax bill.

Third Party Certification Fee

- 7.2. A Third Party Certification fee of \$127.20 will be invoiced to each property owner that utilizes the services of Third Party inspection company for the purposes of ensuring all data collected from the Septic Re-Inspection Program is reviewed, correlated and made available for the year-end report to be prepared by WSP. If this fee is not paid **within 30 days**, it will be added to the property owner's tax bill.
- 7.3. Property owner's that notify WSP that they are selecting a Third Party after WSP has made an attempt to inspect the property will be responsible for payment of the inspection fee.

8. PROCEDURES FOR A RE-INSPECTION

- 8.1. The inspector will review and determine the sewage systems in the proposed zone stated for inspections.
- 8.2. A letter will be sent to the property owner advising who to contact to book an inspection.
- 8.3. If there are no sewage system records in the property files, the inspector will require the property owner to provide a diagram or sewage system records to the inspector prior to performing the inspection. A letter will be sent to the owner to notify them that these documents are required.
- 8.4. The property owner is required to provide access to the septic tank lid(s) (i.e. uncovering/unearthing prior to the inspection).

8.5. As per Part 8 of the Ontario Building Code the following classes of sewage systems will be part of the Septic System Re-inspection Program:

8.5.1. Class 1- Privy

8.5.2. Class 2- Greywater

8.5.3. Class 3- Cesspool

8.5.4. Class 4- Septic System

8.5.5. Class 5- Holding Tank

8.6. The inspector will complete the following steps as part of the inspection process depending on the Class of system:

1. Review of the property's sewage system records;
2. Identify the location of the system on the property – this may require additional information from the owner;
3. Conduct a surface inspection of bed, tank, greywater pit and/or cesspool;
4. Examine the inside of the tank (estimate age of tank, size of tank, condition of tank, if there's a divider, if there are risers and filters in it etc.);
5. The inspector may require a copy of a contract with a hauled sewage system operator;
6. The inspector may examine site for any evidence of illegal discharge;
7. Estimate tank volume;
8. Estimate sludge depth/volume;
9. Request a copy of a date stamped receipt of tank pump out, if required.
10. The inspector may examine the sewage system with appropriate equipment to find any signs of malfunction.
11. The list above is not exhaustive and should other equipment be required the inspector will make provision to obtain the equipment necessary to complete the required tasks to assess the sewage system.

9. INSPECTION REPORTS

- 9.1. An inspection report will be completed by the inspector on site during the re-inspection.
- 9.2. This report will be provided to the property owner. The inspector will retain a copy for Township records.
- 9.3. The inspection report will inform the property owner that their system is either in need of remedial action or that there is no indication of an unsafe system.
- 9.4. If the system is in need of remedial action, a remedial action letter will describe the visual deficiencies observed by the inspector.

- 9.5. It will inform the property owner as to who they should contact for further information regarding their intentions to remedy the deficiencies.
- 9.6. The property owner will also be informed that if they do not respond within a specified time frame, they may be issued an Order to Comply.

10. CERTIFICATE TO OWNER

- 10.1. A certificate that is an approved document by the Ministry of Municipal Affairs and Housing will only be provided to property owners whose system is not deemed to require remedial action.
- 10.2. Once any remedial action is complete and the inspection is passed, a certificate will be provided to the property owner.

11. ENFORCEMENT

- 11.1. Upon receiving the inspection report, the property owner will be given a reasonable amount of time determined by the Chief Building Official or Inspector to remedy the deficiencies.
- 11.2. If no action is taken an Order to Comply will be issued.
- 11.3. Should the property owner refuse to comply with the requirements of the Septic System Re-Inspection Program, enforcement may be taken in accordance with the provisions of the Building Code Act, the Ontario Building Code and/or through the Provincial Offences Act.

**APPENDIX "A"
OF
SCHEDULE "B"**

Certificate

Person Signing Certificate

(Name, Address, Business telephone number, Building Code Identification Number, if applicable)

Certificate

Mandatory Sewage System Maintenance Inspection Program

(pursuant to Article 1.10.2.5 of Division C of the Building Code)

Certificate Number: _____ **Date Certificate Issued:** _____

Address of Property on which Sewage System is Located (hereinafter called the "Property"):

Owner of Property on which Sewage System is Located:

Certificate issued to (name and address of Principal Authority):

Certification

I certify that:

- a) I am a person described in Sentence 1.10.1.3(3) of Division C of the Building Code.
- b) I have conducted an inspection of the sewage system located at the Property.
- c) I am satisfied on reasonable grounds that the sewage system located on the Property is in compliance with the requirements of Section 8.9 of Division B of the *Building Code*.

Certificate issued by:

Name: _____

Complete as applicable:

- BCIN _____
- I am the holder of a licence, a certificate of practice or a temporary licence under the *Architects Act*.
- I am a person who holds a licence or a temporary licence under the *Professional Engineers Act*.

Signature: _____ Date: _____

This certificate is approved by the Minister of Municipal Affairs and Housing under the Building Code Act, 1992.

(Personal information contained in this form and schedules is collected under the authority of clause 34(2.2)(d) of the Building Code Act, 1992, and will be used in the administration and enforcement of the Building Code Act, 1992. Questions about the collection of personal information may be addressed to: a) the Chief Building Official of the municipality or upper-tier municipality to which this application is being made, or, b) the inspector having the powers and duties of a chief building official in relation to sewage systems or plumbing for an upper-tier municipality, board of health or conservation authority to whom this application is made, or c) Director, Building and Development Branch, Ministry of Municipal Affairs and Housing 777 Bay St., 2nd Floor, Toronto, M5G 2E5 (416)585-6666.)