

**THE CORPORATION OF THE TOWN OF DEEP RIVER**

**BY-LAW 17-2016**

**BEING A BY-LAW FOR PRESCRIBING STANDARDS FOR THE MAINTENANCE AND OCCUPANCY OF PROPERTY WITHIN THE TOWN OF DEEP RIVER**

**WHEREAS** Section 15.1(3) of the *Building Code Act*, S.O. 1992, c.23, as amended, authorizes municipalities to enact by-laws prescribing standards for the maintenance and occupancy of property within the municipality and prohibiting the occupancy or use of such property that does not conform with the standards; and for requiring property that does not conform with the standards to be repaired and maintained to conform with the standards or the site to be cleared of all buildings, structures, debris or refuse and left in graded and levelled condition;

**AND WHEREAS** Section 15.9(1) of the *Building Code Act*, S.O. 1992, c.23, as amended, authorizes an inspector to enter upon land and into buildings at any reasonable time without a warrant for the purpose of inspecting a building to determine a) whether the building is unsafe; or b) whether an order made under subsection (4) has been complied with, 2002, c. 9, s.26

**AND WHEREAS** there is in effect in the Town of Deep River, Ontario an Official Plan which includes provisions relating to property conditions as required by Section 15.1(3) of the *Building Code Act*, S.O. 1992, c.23, as amended;

**NOW THEREFORE THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE TOWN OF DEEP RIVER ENACTS AS FOLLOWS:**

**SECTION 1 – SHORT TITLE**

1.0 This by-law may be cited as the “Property Standards By-Law”.

**SECTION 2.0 – DEFINITIONS**

2.0 “ACCESSORY BUILDING” – a subordinate, detached building or structure not used for human habitation, designed or intended for the better or more convenient enjoyment of the main building to which it is accessory and is located upon the lot upon which the main building is or is intended to be erected and shall include a private garage where such garage does not form part of the main building.

2.1 “ALTERATION” – (AS APPLYING TO A BUILDING) a change from one major occupancy class or division to another, or a structural change such as an addition to the area and height, or the removal of part of a building, or any change to the structure such as the construction of, cutting into or removal of any wall, partition, column, beam, joist, floor or other support, or a change of the fixtures and equipment.

- 2.2 'BASEMENT' – means a storey or any room in a storey having its floor level more than four feet below the average grade.
- 2.3 "BUILDING" – means any structure used or intended for supporting or sheltering any use or occupancy.
- 2.4 "BUILDING CODE ACT" – means *Building Code Act*, S.O. 1992, c.23 as it may from time to time be amended or repealed.
- 2.5 "BUILDING CODE" – means the Code made by regulation pursuant to the *Building Code Act*.
- 2.6 "COMMITTEE" – means the Property Standards Committee established under this By-law.
- 2.7 "COUNCIL" – means the Council of the Town of Deep River or its successors.
- 2.8 'DWELLING' – means a building or structure or part of a building or structure occupied or capable of being occupied in whole or in part for the purpose of human habitation and includes the land and premises appurtenant thereto and all accessory buildings thereon or therein.
- 2.9 "DWELLING UNIT" – means one or more rooms for the use of one or more persons as an independent and separate housekeeping unit with cooking, eating, living, sleeping and sanitary facilities.
- 2.10 "FIRE RESISTANCE RATING" – means the time in hours or fraction thereof that material or assembly of materials will withstand the passage of flame and the transmission of heat when exposed to fire under specified conditions of test and performance criteria.
- 2.11 "GOOD REPAIR" – means that a building, structure or appurtenances thereto, including mechanical equipment shall be maintained in such condition so as to be:
- (a) Free from accident or fire hazard
  - (b) Structurally sound
  - (c) In good working order
  - (d) Not unsightly by reason of deterioration, damage or defacement.
- 2.12 'GRADE' – means the average level of finished ground adjoining a building at all exterior walls.

- 2.13 "HABITABLE ROOM" – means any room in a dwelling used or intended to be used for living, sleeping, cooking or eating purposes.
- 2.14 "MAINTAIN" – means the preservation or keeping in repair of a property as required by this by-law and any applicable regulations.
- 2.15 "MULTIPLE DWELLING" – means a building containing three or more dwelling units.
- 2.16 "NON-HABITABLE ROOM" – means any room in a dwelling or dwelling unit other than a habitable room, and includes a bathroom, toilet room, laundry, pantry, lobby, communicating corridor, stairway, closet, basemen, boiler room or other space for service and maintenance of the dwelling for public use, and for access to, and vertical travel between storey's.
- 2.17 "NON-RESIDENTIAL PROPERTY" – means a building or structure not occupied or capable of being occupied in whole or in part for the purpose of human habitation and includes the lands and premises appurtenant thereto.
- 2.18 "OCCUPANCY" – means the use or intended use of a building or part thereof for the shelter or support of persons, animals or property.
- 2.19 "OCCUPANT" – means any person or persons over the age of eighteen years in possession of the property.
- 2.20 "ORDER" – means the order made by the Officer pursuant to this By-law.
- 2.21 "OFFICER" – means a Property Standards Officer who has been assigned the responsibility of administering and enforcing this by-law.
- 2.22 "OWNER" – includes,
- (a) the person managing or receiving the rent of the land or premises in connection with which the word it used, whether on the person's own account or as agent or trustee of any other person, or who would receive the rent if the land and premises were let, and
  - (b) a lessee or occupant of the property who, under the terms of the lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property.
- 2.23 "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, accessory buildings, fences and erections thereon whether heretofore or hereafter erected, and includes vacant property.

- 2.24 "REPAIR" – means the provision of such facilities and the making of additions or alterations or the taking of such action may be required so that the property shall conform to the standards established in this by-law.
- 2.25 "RESIDENTIAL OCCUPANCY" – means the occupancy or use of a building or part thereof by persons for whom sleeping accommodations is provided but who are not harboured or detained to receive medical care or treatment or are not involuntarily detained.
- 2.26 "RESIDENTIAL PROPERTY" – means 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.
- 2.27 "SANITARY BUILDING SEWER" – means a building sewer that may conduct sewage and clear water waste, but not storm water.
- 2.28 "SANITARY SEWER" – means a sewer that conducts sewage.
- 2.29 "SEWAGE" – means liquid waste that contains animal, vegetable or mineral matter but does not include roof run, storm run-off or ground water.
- 2.30 "STANDARDS" – means the standards of physical condition and of occupancy prescribed for property for this by-law.
- 2.31 "YARD" – means the land other than publicly owned land around and appurtenant to the whole or any part of a dwelling or buildings and structures and used or intended to be used or capable of being used in connection with the dwelling or buildings and structures.

### **SECTION 3 – GENERAL DUTIES AND OBLIGATIONS**

- 3.0 No person shall occupy, use, permit the use of, rent, or offer to rent any property that does not conform to the standards established in this by-law.
- 3.1 The owner of any property which does not conform to the standards established in this by-law shall repair and maintain such property to conform to the standards, or shall clear the site of all buildings, structures, debris, or refuse and leave it in a graded and levelled condition.
- 3.2 All repairs shall be made in conformity to the minimum requirements of the Ontario Building Code, The Ontario Fire Code and Fire Prevention and Protection Act, The Ontario Electrical Safety Code, The Ontario Plumbing Code

and all regulations made under the Public Health Act of Ontario.

- 3.3 All new construction, new repairs and all maintenance of property shall be carried out with suitable and sufficient materials and in a manner accepted as good workmanship within the trades concerned.
- 3.4 After all reasonable efforts, as determined in the sole discretion of the Property Standards Officer, have failed to bring a property into compliance with the standards within this by-law, where the officer has placed or caused to be placed a placard communicating the terms of an Order upon any premises under the authority of the Ontario Building Code Act, S.O. 1992, c.23, as amended, no person shall remove such placard except with the consent of the Officer.

#### **SECTION 4 – PROPERTY STANDARDS**

##### **4.0 EXTERIOR STRUCTURE, WALLS, CHIMNEY**

- 4.1.1 The exterior walls of every building shall be sound, plumb, tight, and free from loose or unsecured objects and maintained in good repair.
- 4.1.2 Every part of a building shall be maintained in a structurally sound condition so as to be capable of safely sustaining its own weight and any additional weight that may be put on it through normal use.
- 4.1.3 The roof of every building, including the fascia board, soffit, cornice, flashing and eaves trough shall be maintained in good repair and in watertight condition to prevent leakage of water into the building.
- 4.1.4 Every chimney and/or flue serving a building shall be maintained so as to prevent any gases from leaking into the building. The chimney and/or flue shall be maintained to prevent any build-up of creosote, free of loose bricks, mortar, broken capping and unsightly objects and conditions detrimental to the appearance of the building.
- 4.1.5 All exterior exposed surfaces of a building shall be treated and maintained with a protective coat of paint or other sealing or coating material to inhibit deterioration and improve or maintain a pleasant and satisfying appearance at least commensurate with that of the neighbourhood.
- 4.1.6 Exterior doors, windows and hatchways shall be maintained in good repair to prevent the entrance of wind and rain into the building. Every door, window and hatchway shall open and close freely if required for ventilation or as an exit. Rotted or damaged doors, windows, frames, sashes,

casings, hardware and broken glass shall be repaired or replaced.

## 4.2 SEWAGE DISCHARGE, DRAINAGE

- 4.2.1 Exterior property areas shall be graded and maintained in such a manner to prevent the excessive or recurrent ponding of water or the drainage of such water into a basement and shall be cultivated or protected with a suitable ground cover to prevent erosion of the soil, provided that the grade level of such exterior property shall not be altered so as to either impede the natural flow of water through such property from any adjoining property nor to cause the drainage of water onto any adjacent property unless such alteration is in accordance with a lot grading plan approved by the Town of Deep River.
- 4.2.2 No roof drainage, and/or drainage of water from swimming pools shall be discharged onto sidewalks, steps, neighbouring properties or into the sanitary sewer system and shall be contained within the limits of the premises from which it originated until absorbed by the soil or drained to an approved swale ditch or suitable outlet.
- 4.2.3 Sewage of any kind shall not be discharged to any facility other than those identified in the Ontario Building Code and properly approved for use. The discharge of sewage to the surface of the ground, whether into a natural or artificial surface drainage system or otherwise is strictly prohibited.

## 4.3 WALKS AND DRIVEWAYS

- 4.3.1 A walk shall be provided from the principal entrance of every building to a public street, or to a driveway affording access to a public street and be capable of providing a hazard free surface and shall be maintained so as to afford safe passage under normal use and weather conditions.

## 4.4 GARBAGE

- 4.4.1 Every property shall be provided with sufficient receptacles to contain all garbage, rubbish and ashes. Receptacles shall be of watertight construction, capable of being tightly closed, maintained in a clean conditions, and made available for regular pickup.
- 4.4.2 Multiple dwelling units that do not have an interior garbage room shall install and maintain a receptacle large enough to contain all garbage and rubbish.

#### 4.5 ACCESSORY BUILDINGS, STRUCTURES, RETAINING WALLS, FENCES

- 4.5.1 Every accessory building, structure, retaining wall or fence shall be kept in good condition and repair and shall be maintained in a structurally sound condition to sustain safely its own weight together with any load it might reasonably be subject to and shall be free of dangerous objects including barbed wire and electric fencing.
- 4.5.2 Every residential, commercial, and industrial building and/or accessory building not compliant with the standards set out in this by-law and remaining vacant for a continuous period of three months or more shall be sufficiently secure with all windows and doors boarded to prevent entry by unauthorized persons and such buildings may only be kept secured for a period of twelve months after which time the building or buildings shall be:
- (1) restored to conform with the standards of this by-law; or
  - (2) demolished; or
  - (3) where there is a written agreement with the Council of the Town of Deep River, the building or buildings will be exempt from this section for the period of time specified in the written agreement.
- 4.5.3 The materials used to board up windows and doors in a building shall be at least commensurate with that of the existing building and shall be treated with a protective coat of paint or other sealing or coating material to match the existing building.

#### 4.6 OCCUPANCY STANDARDS

- 4.6.1 The number of occupants in a dwelling or a dwelling unit shall not exceed one (1) person for every 7.5 square metres (80 square feet) of floor area of habitable rooms other than kitchen. Children, 12 years of age and younger shall be counted as 0.5 of a person for the purpose of calculating the number of occupants in a dwelling unit.

### **SECTION 5 – APPLICATION AND ADMINISTRATION**

- 5.0 This by-law applies to all property in the Municipality of the Town of Deep River, Ontario.
- 5.1 All complaints submitted shall be in writing and shall include the date, name of complainant, contact information of the complainant, address of the property believed to be in contravention of this by-law including the nature of the contravention and the complainant's signature, to be provided for the purpose of

evidence in the event that the matter proceeds to court.

5.2 In addition to section 5.2, all complaints dealing with landlord & tenant issues shall comply with the following requirements:

5.2.1 A letter must be submitted to the landlord/owner of the building, giving the landlord/owner at minimum, 14 business days in which to comply with the requirements of this by-law.

5.2.2 If the requirements of this by-law are not met within the given time period, then the tenant is to give the Property Standards Officer a copy of the letter, and the tenant is to arrange a date and time for an inspection of the dwelling unit.

### 5.3 PROPERTY STANDARDS OFFICER

5.3.1 The Council of the municipality shall assign a Property Standards Officer(s) as being responsible for the administration and enforcement of this by-law.

5.3.2 The Officer may, upon producing proper identification, enter upon any property at any reasonable time without a warrant for the purpose of inspecting the property to determine,

- (1) Whether the property complies with the standards prescribed in this by-law; or
- (2) Whether an order made under section (5.3.3) has been complied with.

5.3.3 If after inspection the officer finds that the property does not comply with any of the standards prescribed in this by-law, he/she may make an order.

- (1) stating the municipal address or the legal description of such property;
- (2) 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;
- (3) 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
- (4) indicating the final date for giving notice of appeal from the order.

5.3.4 The Order shall be 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. No person shall pull down or deface any such posted order.

- 5.3.5 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 under section (5.3.4) 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.
- 5.3.6 (1) An owner or occupant who has been served with an Order made under section (5.3.3) and who is not satisfied with the terms or conditions of the order may appeal to the Committee by sending a notice of appeal along with any fees as prescribed by registered mail to the Secretary of the Committee within 14 days after being served the order.
- (2) An order that is not appealed within the time referred to in subsection (5.3.6(1)) shall be deemed to be confirmed.
- (3) Powers of the Committee on Appeal. 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.
- The Committee shall render a written decision to the Appellant and any other parties to the appeal within fourteen (14) calendar days.
- (4) Appeal to The Ontario Court General Division. The municipality in which the property is situated or any owner or occupant or person affected by a decision under subsection (5.3.6(3)) may appeal to a judge of the Ontario Court (General Division) for an appointment within fourteen (14) days after the sending of a copy of the Committee's decision.
- 5.3.7 In the case of non-compliance to the extent to pose an immediate danger to the health or safety to persons, the officer may proceed under Section 15.7 of the *Building Code Act*.

#### 5.4 PROPERTY STANDARDS COMMITTEE

The Council of the municipality shall, by resolution, appoint three (3) citizens at large to the Property Standards Committee for the term of office concurrent with Council's term of office and determine the appropriate compensation that each member of the Committee shall receive.

#### 5.5 POWER OF THE MUNICIPALITY TO DEMOLISH OR REPAIR

5.5.1 The order as deemed to have been confirmed or as confirmed or modified by the Committee or, in the event of an appeal to a Judge of the Ontario Court (General Division) as confirmed or modified by the Judge, shall be final and binding upon the owner and occupant who shall make the repair or effect the demolition within the time and in the manner specified in the order.

5.5.2 If the owner or occupant of the property fails to demolish the property or to repair in accordance with the order as confirmed or modified, the Corporation of the Town of Deep River, in addition to all other remedies:

- (1) shall have the authority to demolish or repair the property accordingly and for this purpose its servants and agents from time to time may enter in and upon the property;
- (2) shall not be liable to compensate such owner, occupant or any person having an interest in the property by reason of anything done or by or on behalf of the Town under the provisions of this section; and,
- (3) the municipality shall have a lien on the land for the amount spent on the repair or demolition under subsection (1) 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 collector's roll and collected in the same manner and with the same priorities as municipal real property taxes

#### 5.6 OFFENCES

5.6.1 A person or corporation is guilty of an offence, as provided for in subsection 425(1) of the Municipal Act, 2011, if the person or corporation,

- (a) Fails to comply with an order, direction or other requirement made under this by-law or the Building Code Act; or
- (b) Obstructs or attempts to obstruct an officer, or any person acting under an officer's instructions, in the lawful exercise of a power granted to him, her or them by this by-law or the Building Code Act.

- 5.6.2 Every director or officer of a corporation who knowingly permits or participates in the commission of an offence provided for in Section 5.6.1 is guilty of an offence.
- 5.6.3 All offences provided for in this by-law are designated as continuing offences as provided for in Subsection 429(2)(a) of the Municipal Act, 2001.
- 5.6.4 Any proceeding alleging an offence may be commenced pursuant to the Provincial Offences Act, or any successive legislation by,
- (a) Filing a certificate of offence alleging the offence in the office of the court;
  - (b) Laying an information; or
  - (c) Any other means of commencing a proceeding that may be permitted in law from time to time by the Province of Ontario.

## 5.7 PENALTIES

- 5.7.1 Where a proceeding is commenced by filing a certificate of offence alleging the offence in the office of the court, a person or corporation who is convicted of an offence is liable, for each day or part of a day that the offence continues, to the fine or penalties as set out in Schedule "A" of this by-law.
- 5.7.2 Where a proceeding is commenced by laying an information or any other means of commencing a proceeding that may be permitted in law from time to time by the Province of Ontario,
- (a) A person, other than a corporation, who is convicted of an offence is liable, for each day or part of a day that the offence continues, to a fine of not more than \$50,000 for the first offence and to a fine of not more than \$100,000 for a subsequent offence; and
  - (b) A corporation that is convicted of an offence is liable, for each day or part of a day that the offence continues, to a fine of not more than \$100,000 for a first offence and to a fine of not more than \$200,000 for a subsequent offence.
- 5.7.3 For the purpose of this by-law, an offence is a subsequent offence if there has been a previous conviction under this, or any prior, property standards by-law.
- 5.7.4 If this by-law is contravened and a conviction is entered, in addition to any other remedy and to any penalty imposed by Section 5.7.1 or 5.7.2, the court in which the conviction is entered, and any court of competent

jurisdiction thereafter, may make an order prohibiting the continuation or repetition of the offence by the person, or corporation, convicted.

5.8 REPEAL

Save and except for the provisions of Section 6.0 below, By-law 10-2012 and By-law 26-2013 and the amendments and any other by-law inconsistent with the provision contained in this by-law are hereby repealed.

5.9 CONFLICTS

Wherever a standard established by this By-law differs from a standard in relation to the same matter established by any other item of legislation in force in the Town of Deep River, Ontario, the standard which provides the higher degree of protection for the health, safety and welfare of the occupants and the general public shall prevail.

6.0 This by-law shall come into force and take effect upon the date of final passing thereof. After the date of passing of this by-law, By-law 10-2012 will continue to apply to all properties in respect of which an order has been issued prior to the date of passing of this by-law, and then only to such properties until such time as the work required by such order has been completed.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 20th DAY OF APRIL, 2016.

  
MAYOR

  
CLERK

**Town of Deep River**

***PART 1 Provincial Offences Act***

**By-law No. 17-2016**

Town of Deep River By-law 17-2016, Being a By-law for Prescribing Standards for the Maintenance and Occupancy of Property within the Town of Deep River.

Item	Column 1 Short Form Wording	Column 2 Provision Creating or Defining Offence	Column 3 Set Fine
1.	Fails to comply with an order, direction or other requirement	s.5.6.1 (a)	\$300.00 for each day or part thereof that the offence continues
2.	Obstructs or Attempts to Obstruct an Officer	s. 5.6.1 (b)	\$300.00