

**BY-LAW NO. 195
TOWN OF SACKVILLE
MAINTENANCE AND OCCUPANCY STANDARDS
FOR RESIDENTIAL PROPERTIES BY-LAW**

The Council of the Town of Sackville enacts the following by-law under Section 94 of the *Municipalities Act*.

Interpretation

1. In this by-law:
 - (a) “Code” means the Residential Properties Maintenance and Occupancy Code approved by the Lieutenant-Governor in Council under Section 93 of the *Municipalities Act*; and
 - (b) “By-Law Enforcement Officer” means a person designated by the Council of the Town of Sackville as its by-law enforcement officer to administer and enforce this by-law.

Purpose

2. The purpose of this by-law is:
 - (a) to put into effect standards to govern the condition, occupancy and maintenance of residential properties; and
 - (b) to provide reasonable safeguards for the safety, health and welfare of occupants and users of residential properties by requiring the owners thereof to repair and maintain such properties in accordance with the standards.

Adoption of Code

3. The Code is adopted and applies within the boundaries of the Town of Sackville.

Duties of Owner

4. The owner of a residential property shall:
 - (a) repair and maintain such property in accordance with the standards set out in the Code whether or not a notice has been served under Section 5;
 - (b) comply with any order made by a By-Law Enforcement Officer to repair such property at the owner’s expense and within the time stated in the order; and
 - (c) permit a By-Law Enforcement Officer to enter upon any residential property for the purpose of making any inspections necessary for the administration and enforcement of this by-law.

Enforcement

5. Where a property is found to be in violation of the Code, a By-Law Enforcement Officer may notify the owner or occupier of the property of the violation and the notice shall:
 - (a) be in writing;
 - (b) be signed by the By-Law Enforcement Officer;
 - (c) state that the property does not comply with the Code;
 - (d) state what must be done to comply with the Code;
 - (e) state the date before which the condition must be corrected; and
 - (f) be served either by personal delivery on the person to be notified or by posting in a conspicuous place on the property.

- 6(1) Proof of the giving of notice in either manner provided for in subsection 5(f) may be by a certificate or an affidavit purporting to be signed by a By-Law Enforcement Officer, naming the person to whom notice was given and specifying the time, place and manner in which notice was given.

- 6(2) A document purporting to be a certificate under subsection (1) shall be
 - (a) admissible in evidence without proof of signature, and
 - (b) conclusive proof that the person named in the certificate received notice of the matters referred to in the certificate.

- 6(3) In any prosecution for a violation of any provision of this by-law, where proof of the giving of notice is made as prescribed under subsection (1), the burden of proving that one is not the person named in the certificate or affidavit shall be upon the person charged.

- 6(4) A notice given under Section 4 and purporting to be signed by an officer appointed by council shall be
 - (a) received in evidence by any court in the Province without proof of the signature,
 - (b) proof in the absence of evidence to the contrary of the facts stated in the notice, and
 - (c) on the hearing of an information for a violation of any provision of this by-law, proof in the absence of evidence to the contrary that the person named in the notice is the owner or occupier of the property in respect of which the notice was given.

Penalties

- 7(1) A person who violates any provision of this by-law or who fails to comply with an order of a By-Law Enforcement Officer which is authorized by this by-law commits an offence and is liable on summary conviction to a fine of not less than \$100.00 and not more than \$500.00. All such fines shall be recoverable under the *Provincial Offences Procedure Act*, S.N.B. 1987, c. P-22.1.

- 7(2) A violation as provided for in subsection (1) is a continuing offence and a separate information may be laid for each day such offence continues and the penalty provided in subsection (1) shall be imposed for each conviction resulting from the laying of each information.
- 7(3) The conviction of a person under this section does not operate as a bar to further prosecution for continued neglect or failure to comply with the provisions of this by-law and the Code.
- 7(4) A person who violates any provision of this by-law or the Code may, at the discretion of a By-Law Enforcement Officer, pay the minimum fine prescribed and, upon such payment, the person who committed the violation will not be further prosecuted for the violation.

Repeal

- 8(1) By-law No. 164, Maintenance and Occupancy Standards for Residential Properties By-Law is repealed.
- 8(2) The repeal of By-Law No. 164, Maintenance and Occupancy Standards for Residential Properties By-Law shall not affect any penalty, forfeiture or liability, incurred before such repeal or any proceedings for enforcing the same completed or pending at the time of repeal; nor shall it repeal, defeat, disturb, invalidate or prejudicially affect any matter or thing whatsoever completed, existing or pending at the time of appeal.
9. This by-law comes into force on the date of final passing thereof.

Read a first time this 10th day of May, 2005.

Read a second time this 13th day of June, 2005.

Read a third time and passed Council this 13th day of June, 2005.

Mayor

Clerk