

**A BY-LAW FOR MAINTENANCE AND OCCUPANCY STANDARDS
FOR RESIDENTIAL PROPERTIES WITHIN THE TOWN OF SUSSEX**

BY-LAW # 701-19

Page 1 of 19

The Council of the Town of Sussex, under authority vested in it by Section 10 (1) (e) of the Local Governance Act, R.S.N.B. 2017, Chapter 18 and amendments thereto, enacts as follows:

1. **TITLE**

This by-law may be cited as a By-law for Maintenance and Occupancy Standards for Residential Properties Within the Town of Sussex.

2. **GENERAL**

The provisions of this by-law apply to the entire area within the Town limits of the Town of Sussex.

3. **DEFINITIONS**

In this by-law,

- 3.1. *“Building Inspector”* means an officer appointed by Council as Building Inspector;
- 3.2. *“Clerk”* means the Clerk of the Town of Sussex;
- 3.3. *“Council”* means the Council of the Town of Sussex;
- 3.4. *“dwelling”* means a building, any part of which is used or is intended to be used for the purposes of human habitation.
- 3.5. *“dwelling unit”* means one or more rooms located within a dwelling and used or intended to be used for human habitation
- 3.6. *“municipality”* means the Town of Sussex;

3.7. *“property”* includes premises, a building or structure; and

3.8. *“Treasurer”* means the Treasurer of the Town of Sussex.

4. MINIMUM STANDARD / CODE

Schedule “A” is hereby adopted on the Residential Properties Maintenance and Occupancy Code, and amendments thereto, and applies within the municipal boundaries of the Town of Sussex.

5. BUILDING INSPECTOR

The Building Inspector is hereby designated as the officer responsible for the administration and enforcement of this by-law.

6. OFFENCES AND PENALTIES RELATING TO DANGEROUS OR UNSIGHTLY PREMISES

6.1. No person shall permit premises owned or occupied by him or her to be unsightly by permitting to remain on any part of the premises

- a) any ashes, junk, rubbish or refuse,
- b) an accumulation of wood shavings, paper, sawdust or other residue of production or construction,
- c) a derelict vehicle, equipment or machinery or the body or any part of a vehicle, equipment or machinery, or
- d) a dilapidated building.

6.2. No person shall permit a building or other structure owned or occupied by the person to become a hazard to the safety of the public by reason of being vacant or unoccupied.

- 6.3. No person shall permit a building or other structure owned or occupied by the person to become a hazard to the safety of the public by reason of dilapidation or unsoundness of structural strength.**
- 6.4. A person who violates or fails to comply with subsection 6.2 or 6.3 commits an offence that is, subject to subsections 6.5 and 6.6, punishable under Part 2 of the Provincial Offences Procedure Act as a category F offence.**
- 6.5. Despite subsection 56 (6) of the Provincial Offences Procedure Act, if a person who is leasing a dwelling or dwelling unit to another person commits an offence under subsection 6.4 in relation to the dwelling or dwelling unit, the minimum fine that may be imposed by a judge under that Act in respect of the offence shall be \$1,000.**
- 6.6. If an offence under subsection 6.4 continues for more than one day,**
 - a) if the offence was committed in relation to a dwelling or dwelling unit by a person who is leasing the dwelling or dwelling unit to another person,**
 - (i) the minimum fine that may be imposed is the sum of**
 - (a) \$1,000, and**
 - (b) the minimum fine set by the Provincial Offences Procedure Act for a category F offence multiplied by the number of days during which the offence continues after the first day, and**
 - (ii) the maximum fine that may be imposed is the maximum fine set by the Provincial Offences Procedure Act for a category F offence multiplied by the number of days during which the offence continues, and**
 - b) in any other case,**
 - (i) the minimum fine that may be imposed is the minimum fine set by the Provincial Offences Procedure Act for a category F offence multiplied by**

- the number of days during which the offence continues, and
- (ii) the maximum fine that may be imposed is the maximum fine set by the Provincial Offences Procedure Act for a category F offence multiplied by the number of days during which the offence continues.

7. NOTICE TO OWNER OR OCCUPIER

- 7.1. If a condition referred to in subsection 6.1, 6.2 or 6.3 exists, a by-law enforcement officer may notify
- a) the owner or occupier of the premises, building or other structure,
 - b) the person managing or receiving the rent for the premises, building or other structure, whether on the person's own account or as agent or trustee of any other person, or
 - c) the person who would receive the rent if the premises, building or other structure were let.
- 7.2. A notice referred to in subsection 7.1 shall be in the form prescribed by regulation which shall:
- a) be in writing,
 - b) be signed by the officer,
 - c) state the condition in subsection 6.1, 6.2 or 6.3 that exists,
 - d) state what must be done to correct the condition,
 - e) state the date before which the condition must be corrected, and
 - f) if an appeal may be brought under subsection 9.1, state the date for giving notice of the appeal.
- 7.3. A notice referred to in subsection 7.1 may be given in the following ways:
- a) if the person to be notified is an individual,
 - (i) by personal delivery to the individual,

- (ii) by registered mail to the individual's latest known address, or
- (iii) by posting the notice in a conspicuous place on the premises, building or other structure,
- (iv) posted on the Town's website in accordance with Section 70 (1) (c) Local Governance Act, R.S.N.B. 2017, Chapter 18 and amendments thereto, and

b) if the person to be notified is a corporation,

- (i) by personal delivery to an officer, director or agent of the corporation or to a manager or person who appears to be in control of any office or other place of business in the Province where the corporation carries on business,
- (ii) by registered mail to the corporation's registered office, or
- (iii) by posting the notice in a conspicuous place on the premises, building or other structure.

7.4. A notice that is posted in a conspicuous place under subparagraph 7.3 (a) (iii) or 7.3 (b) (iii) shall be deemed to have been given to an individual or corporation on the day it was posted.

7.5. A notice given to a person referred to in paragraph 7.1 (b) or 7.1(c) shall be deemed to have been given to the owner of the premises, building or other structure.

8. EVIDENCE

8.1. Proof of giving a notice in a manner provided for in subsection 7.3 may be made by a certificate or an affidavit purporting to be signed by the by-law enforcement officer referred to in subsection 7.1 naming the person named in the notice and specifying the time, place and manner in which notice was given.

- 8.2. A document purporting to be a certificate under subsection 8.1 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.**
- 8.3. In a prosecution for a violation of a by-law made under section 10 (1) (d) of the Local Governance Act, R.S.N.B. 2017, Chapter 18 and amendments thereto, in which proof of the giving of the notice is made in accordance with subsection 9.1 the onus is on the accused to prove that the accused is not the person named in the certificate or affidavit.**
- 8.4. A notice given under section 6 and purporting to be signed by a by-law enforcement officer 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) in a prosecution for a violation of a by-law made under Section 10 (1) (d), of the Local Governance Act, R.S.N.B. 2017, Chapter 18, and amendments thereto, proof, in the absence of evidence to the contrary, that the person named in the notice is the owner or occupier of the premises, building or other structure in respect of which the notice was given.**

9. APPEAL

- 9.1. An owner or occupier of premises or a building or other structure who has been given a notice under section 7, other than a notice prepared and signed under subsection 14.1, and who is not satisfied with the terms or conditions set out in the notice may appeal to the appropriate committee of council by sending a notice of appeal by registered mail to the clerk of the local government within 14 days after having been given the notice.**

- 9.2. A notice that is not appealed within the time referred to in subsection 9.1 shall be deemed to be confirmed and is final and binding on the owner or occupier who shall comply within the time and in the manner specified in the notice.
- 9.3. On an appeal, the committee of council shall hold a hearing into the matter at which the owner or occupier bringing the appeal has a right to be heard and may be represented by counsel.
- 9.4. On an appeal with respect to a notice under Section 7 arising out of a condition referred to in subsection 6.2 the onus is on the local government to prove that the building or structure has become a hazard to the safety of the public by reason of being vacant or unoccupied.
- 9.5. On an appeal, the committee of council may confirm, modify or rescind the notice or extend the time for complying with the notice.
- 9.6. The committee of council shall provide a copy of its decision to the owner or occupier who brought the appeal within 14 days after making its decision.
- 9.7. If a notice that is confirmed or modified by a decision of the committee of council under subsection 9.5 is not appealed within the time referred to in subsection 9.8 it shall be final and binding on the owner or occupier who shall comply within the time and in the manner specified in the notice.
- 9.8. The owner or occupier who is provided with a copy of a decision under subsection 9.6 may appeal the decision to a judge of The Court of Queen's Bench of New Brunswick within 14 days after the copy of the decision was provided to the owner or occupier on the grounds that
 - a) the procedure required to be followed by this Act was not followed, or
 - b) the decision is unreasonable.

- 9.9. On an appeal, the judge of The Court of Queen's Bench of New Brunswick may confirm, modify or rescind the whole or any part of the decision of the committee of council, and the decision of the judge under this subsection is not subject to appeal.
- 9.10. A notice that is confirmed or modified by a judge of The Court of Queen's Bench of New Brunswick under subsection 9.9 shall be final and binding on the owner or occupier who shall comply within the time and in the manner specified in the notice.
- 9.11. An appeal does not prevent a further notice from being given under section 7 or from being prepared and signed under subsection 14.1 in relation to a condition referred to in the notice that is the subject of the appeal, if there has been a change in the condition.

10. REGISTERING A NOTICE

- 10.1. In this section "land registration office" means a registry office established under the Registry Act or a land titles office established under the Land Titles Act.
- 10.2. A notice given under Section 7 may be registered in the appropriate land registration office and, on registration, any subsequent owner of the premises, building or other structure in respect of which the notice was given shall be deemed, for the purposes of Sections 12 and 14, to have been given the notice on the day on which the notice was given under Section 7.
- 10.3. Section 44 of the Registry Act and section 55 of the Land Titles Act do not apply to a registration under subsection 10.2.
- 10.4. Within 30 days after the terms of a notice have been complied with or a debt due to a local government under subsection 12.3 or 14.4 or due to the Minister of Finance under subsection 18.3 as the case may be, is discharged, the local government shall provide a certificate in the form prescribed by regulation to that effect to the person to whom the notice was given under Section 7

or was deemed to have been given under subsection 10.2 as the case may be, and the certificate shall operate as a discharge of the notice.

- 10.5. A person to whom a certificate is provided under subsection 10.4 may register the certificate in the appropriate land registration office, and, on registration of the certificate, the appropriate registrar of the land registration office shall cancel registration of the notice in respect of which the certificate was provided.

11. OFFENCE AND PENALTY FOR FAILURE TO COMPLY WITH A NOTICE

- 11.1. A person who fails to comply with the terms of a notice given under Section 7 commits an offence that is, subject to subsections 11.2 and 11.3 punishable under Part 2 of the Provincial Offences Procedure Act as a category F offence.
- 11.2. Despite subsection 56(6) of the Provincial Offences Procedure Act, if a person who is leasing a dwelling or dwelling unit to another person commits an offence under section 11.1 in relation to a notice given under Section 7 with respect to the dwelling or dwelling unit, the minimum fine that may be imposed by a judge under that Act in respect of the offence is \$1,000.
- 11.3. If an offence under subsection 11.1 continues for more than one day,
- a) if the offence was committed by a person in relation to a notice given under Section 7 with respect to a dwelling or dwelling unit the person is leasing to another person,
 - (i) the minimum fine that may be imposed is the sum of
 - a) \$1,000, and
 - b) the minimum fine set by the *Provincial Offences Procedure Act* for a category F offence multiplied by the number of days during which the offence continues after the first day, and

(ii) the maximum fine that may be imposed is the maximum fine set by the *Provincial Offences Procedure Act* for a category F offence multiplied by the number of days during which the offence continues, and

b) in any other case,

(i) the minimum fine that may be imposed is the minimum fine set by the Provincial Offences Procedure Act for a category F offence multiplied by the number of days during which the offence continues, and

(ii) the maximum fine that may be imposed is the maximum fine set by the Provincial Offences Procedure Act for a category F offence multiplied by the number of days during which the offence continues.

11.4. The conviction of a person under this section does not operate as a bar to further prosecution for the continued neglect or failure on the person's part to comply with the provisions of this Part.

12. POWER TO CLEAN, REPAIR OR DEMOLISH

12.1. If an owner or occupier does not comply with a final and binding notice given under Section 7 within the time set out in the notice, the local government may, rather than commencing proceedings in respect of the violation or in addition to doing so,

- a) cause the premises of that owner or occupier to be cleaned up or repaired if the notice arises out of a condition contrary to subsection 6.1;
- b) cause the building or other structure of that owner or occupier to be repaired or demolished if the notice arises out of a condition contrary to subsection 6.2 or
- c) cause the building or other structure of that owner or occupier to be demolished if the notice arises out of a condition contrary to subsection 6.3

- 12.2. Subsection 12.1 does not apply in respect of a notice prepared and signed under subsection 14.1
- 12.3. The costs of carrying out any work set out in subsection 12.1 including any associated charge or fee, is chargeable to the owner or occupier and becomes a debt due to the local government.
- 12.4. For the purpose of subsection 12.1, the by-law enforcement officer who gave the notice in respect of the premises, building or other structure and the authorized employees of the local government or other persons acting on behalf of the local government may, at all reasonable times, enter the premises, building or other structure in order to clean up or repair the premises or repair or demolish the building or other structure, as the case may be.
- 12.5. A local government or a person acting on its behalf is not liable to compensate an owner or occupier or any other person by reason of anything done by or on behalf of the local government in the reasonable exercise of its powers under this section.

13. REPORT REQUIRED BEFORE DEMOLITION

A local government shall not proceed to act under paragraph 12.1(c) unless it has a report from an architect, an engineer, a building inspector or the fire marshal that the building or structure is dilapidated or structurally unsound and that report is proof in the absence of evidence to the contrary that the building or structure is dilapidated or structurally unsound.

14. EMERGENCY SITUATION

- 14.1. If, on inspection of a property under Section 144 of the Local Governance Act, R.S.N.B. 2017, Chapter 18 and amendments thereto, the by-law enforcement officer referred to in that section is satisfied that there is nonconformity with the provisions of this Part to such an extent as to pose an emergency, the by-law enforcement officer may prepare and sign a notice referred to in

Section 7 of this by-law requiring the owner or occupier of the premises, building or other structure in respect of which the notice is prepared to immediately carry out work to terminate the danger.

- 14.2. After having prepared and signed a notice referred to in subsection 14.1 the by-law enforcement officer may, either before or after the notice is given, take any measures necessary to terminate the danger giving rise to the emergency, and, for this purpose, the by-law enforcement officer who prepared the notice and the authorized employees of the local government or other persons acting on behalf of the local government may, at any time, enter the premises, building or other structure in respect of which the notice was prepared.**
- 14.3. A local government or a person acting on its behalf is not liable to compensate an owner or occupier or any other person by reason of anything done by or on behalf of the local government in the reasonable exercise of its powers under this section.**
- 14.4. The cost of taking measures under subsection 14.2 including any associated charge or fee, is chargeable to the owner or occupier and becomes a debt due to the local government.**
- 14.5. If the notice referred to in subsection 14.1 was not given before measures were taken under subsection 14.2 to terminate the danger, the by-law enforcement officer shall give a copy of the notice as soon as the circumstances permit after the measures have been taken, and the copy of the notice shall have attached to it a statement by the by-law enforcement officer describing the measures taken by the local government and providing details of the amount spent in taking the measures.**
- 14.6. If the notice referred to in subsection 14.1 was given before the measures were taken under subsection 14.2, the by-law enforcement officer shall give a copy of the statement referred to in subsection 14.5 in the same manner as a notice is given under subsection 7.3 as soon as the circumstances permit after the measures have been taken.**

15. OFFENCE AND PENALTY FOR OBSTRUCTION

- 15.1. No person shall refuse entry to or obstruct or interfere with a by-law enforcement officer, an authorized employee or other person referred to in subsection 12.4 or 14.2 who under the authority of that subsection is entering or attempting to enter premises or a building or other structure.**
- 15.2. A person who violates or fails to comply with subsection 15.1 commits an offence that is, subject to subsections 15.3 and 15.4, punishable under Part 2 of the Provincial Offences Procedure Act as a category F offence.**
- 15.3. Despite subsection 56 (6) of the Provincial Offences Procedure Act, if a person who is leasing a dwelling or dwelling unit to another person commits an offence under subsection 15.3 in relation to the dwelling or dwelling unit, the minimum fine that may be imposed by a judge under that Act in respect of the offence is \$1,000.**
- 15.4. If an offence under subsection 15.2 continues for more than one day,**
- a) if the offence was committed by a person in relation to a dwelling or dwelling unit the person is leasing to another person,**
 - (i) the minimum fine that may be imposed is the sum of**
 - a) \$1,000, and**
 - b) the minimum fine set by the Provincial Offences Procedure Act for a category F offence multiplied by the number of days during which the offence continues after the first day, and**
 - (ii) the maximum fine that may be imposed is the maximum fine set by the Provincial Offences Procedure Act for a category F offence multiplied by**

the number of days during which the offence continues, and

- b) in any other case,
 - (i) the minimum fine that may be imposed is the minimum fine set by the Provincial Offences Procedure Act for a category F offence multiplied by the number of days during which the offence continues, and
 - (ii) the maximum fine that may be imposed is the maximum fine set by the Provincial Offences Procedure Act for a category F offence multiplied by the number of days during which the offence continues.

16. RECOVERY COSTS – FILING OF CERTIFICATE

- 16.1. If the cost of carrying out work or the cost of taking measures becomes a debt due to a local government under subsection 12.3 or 12.4 an officer of the local government may issue a certificate stating the amount of the debt due and the name of the owner or occupier from whom the debt is due.
- 16.2. A certificate issued under subsection 16.1 may be filed in The Court of Queen’s Bench of New Brunswick and the filed certificate shall be entered and recorded in the Court and may then be enforced as a judgment obtained in the Court by the local government against the person named in the certificate for a debt in the amount specified in the certificate.
- 16.3. All reasonable costs and charges associated with filing, entering and recording a certificate under subsection 16.2 may be recovered as if the amount had been included in the certificate.

17. LIEN

- 17.1. Despite subsection 72 (2) of the Workers' Compensation Act, the cost of carrying out work under subsection 12.1 or of taking measures under subsection 14.2 as the case may be, and all reasonable costs and charges associated with filing, entering and recording a certificate under Section 16 shall, until they are paid, form a lien on the real property in respect of which the work is carried out or the measures are taken in priority to every claim, privilege, lien or other encumbrance, whenever created, subject only to taxes levied under the Real Property Tax Act and to a special lien under subsection 117 (9) of that Act.**
- 17.2. The lien in subsection 17.1**
- a) attaches when the work under subsection 12.1 begins or the measures under subsection 14.2 begin, as the case may be, and does not require registering or filing any document or giving notice to any person to create or preserve it, and**
 - b) is not defeated by a change in the ownership of the real property.**
- 17.3. A mortgagee, judgment creditor or other person having a claim, privilege, lien or other encumbrance on or against the real property to which a lien under subsection 17.1 is attached:**
- a) may pay the amount of the lien,**
 - b) may add the amount to the person's mortgage, judgment or other security, and**
 - c) has the same rights and remedies for the amount that are contained in the person's security.**

18. DEBTS PAID BY THE MINISTER OF FINANCE

- 18.1. If a debt due to a local government under subsection 12.3 or 14.4 remains unpaid in whole or in part and the Minister of Finance is of the opinion that the local government has made reasonable efforts to recover the unpaid amount, the Minister of Finance shall, if the local government requests the Minister to do so before December 31 in any year, pay to the local government the following amounts in the following year:**
- a) the unpaid amount of the debt; and**
 - b) interest on the unpaid amount of the debt,**
 - (i) calculated at the same rate that is applied in determining the amount of a penalty under subsection 10(3) of the Real Property Tax Act, and**
 - (ii) accruing from the day the local government completes the work or measures in respect of which the debt arose to the day the local government makes a request under this subsection for payment in respect of the debt.**
- 18.2. A local government shall make a request under subsection 18.1 by submitting to the Minister of Finance a statement of the expenditures of the local government that gave rise to the debt.**

- 18.3. Subject to subsection 18.4, if a debt due to a local government under subsection 12.3 or 14.4 in relation to work carried out or Measures taken with respect to premises or a building or other structure remains unpaid, in whole or in part, by the person liable to pay the debt and the Minister of Finance has made a payment under subsection 18.1 in respect of the debt,**
- a) any part of the debt that remains unpaid by the person liable to pay the debt becomes a debt due to the Minister of Finance, and**
 - b) the Minister of Finance shall collect the following amounts from the owner of the premises, building or other structure in the same manner that taxes on real property are collected under the Real Property Tax Act:**
 - (i) any part of the debt under subsection 12.3 or 14.4 that remains unpaid by the person liable to pay the debt; and**
 - (ii) interest on the unpaid part of the debt,**
 - a) calculated at the same rate as is applied in determining the amount of a penalty under subsection 10(3) of the Real Property Tax Act, and**
 - b) accruing from the day the local government completes the work or measures in respect of which the debt arose to the day the local government makes a request under subsection 18.1 for payment in respect of the debt.**

- 18.4. Subject to subsections 18.5 and 18.6, for the purposes of subsection 18.3, the following provisions of the Real Property Tax Act apply with the necessary modifications:**
- a) section 7,**
 - b) section 10, except for subsection (2),**
 - c) section 11,**
 - d) section 12,**
 - e) sections 13 to 16, and**
 - f) sections 19 to 25.**
- 18.5. If the amounts referred to in subsection 18.3 paragraph (b) remain unpaid, those amounts and any penalty added to them under subsection 18.4 constitute a lien on the real property in respect of which the work was carried out or the measures were taken, and the lien ranks equally with a lien under subsection 11(1) of the Real Property Tax Act.**
- 18.6. If the real property is sold under any order of foreclosure, seizure and sale, execution or other legal process or a power of sale under a debenture or mortgage or under subsection 44(1) of the Property Act, the amount of a lien referred to in subsection 18.5 constitutes a charge on the proceeds that ranks equally with a charge under subsection 11 (1) of the Real Property Tax Act.**

19. PLURAL OR FEMININE TERMS

Plural or feminine terms may apply whenever the singular, masculine or feminine is used in this by-law. It shall be considered as if the plural, feminine or masculine has been used where the context of the party or parties hereto so requires.

20. VALIDITY

The invalidity of any Section, subsection, clause, sentence or provision of this by-law shall not affect the validity of any other Section, subsection, clause, sentence or provision of this by-law which can be given effect without such parts.

21. BY-LAW REPEALED

21.1. The repeal of this By-Law For Maintenance and Occupancy Standards For Residential Properties By-Law #701-11 enacted on the 21st day of November 2011 and amendments thereto shall not affect any penalty, forfeiture or liability, incurred before such repeal or any proceeding for enforcing the same completed or pending at the time of repeal; nor shall it repeal, defeat, disturb, invalidate or prejudicially affect any manner or thing whatsoever completed, existing or pending at the time of repeal.

21.2. A by-law entitled “A By-Law For Maintenance and Occupancy Standards For Residential Properties, By-Law # 701-11”, enacted on the 21st day of November, 2011, and amendments thereto, is repealed.

FIRST READING BY TITLE	<u>December 17, 2018</u>
SECOND READING BY TITLE	<u>January 21, 2019</u>
READ IN ENTIRETY	<u>February 19, 2019</u>
THIRD READING BY TITLE AND ENACTED	<u>February 19, 2019</u>

Marc. Thorne

MAYOR

Paul Maguire

TOWN CLERK

**A BY-LAW FOR MAINTENANCE AND OCCUPANCY STANDARDS
FOR RESIDENTIAL PROPERTIES
BY-LAW # 701-19**

**SCHEDULE "A"
RESIDENTIAL PROPERTIES MAINTENANCE AND OCCUPANCY CODE**

Page 1 of 12

1. In this code,

"accessory building" means a building, fence or other structure, the use of which is incidental to the use of a dwelling and which is located in the yard around the dwelling;

"dwelling" means a building any part of which is or is intended to be used for the purposes of human habitation, whether or not the building is in such state of disrepair as to be unfit for such purpose;

"dwelling unit" means one or more rooms located within a dwelling and used or intended to be used for human habitation by one or more persons;

"habitable room" means any room, other than a non-habitable room, in a dwelling unit;

"medical health officer" means a medical health officer appointed under the Health Act, and includes a district medical health officer;

"non-habitable room" means any room or space in a dwelling used or intended to be used as a bathroom, toilet room, laundry, pantry, closet, recreation room, furnace room or other room or space for the service or maintenance of the dwelling, the lobby, communication corridor, stairway or other access for vertical travel between storeys and those areas of the dwelling intended for public use or access;

"owner" means any person entitled to any freehold or other estate or interest in land, at law or in equity, in possession, or in futurity or expectancy, such as a mortgagee, mortgagor, lessee under lease, tenant, occupant, licensee, permittee or any other person having care,

control, domain and management over the premises or who receives any rent or pays municipal taxes in respect thereof;

"repair" means to take the necessary action to bring residential property to the standards prescribed herein;

"residential property" means a dwelling with the yard around it and any accessory building in such yard;

"sewage" means water-carried waste from residential property, together with such ground, surface and storm waters as may be present;

"sewer system" means the municipal sanitary sewer system where available or, otherwise, a private sewage disposal system that meets requirements of regulations under the Health Act;

"standards" mean the standards of physical condition and of occupancy prescribed herein for residential property; and

"yard" means the privately or publicly owned land around and appurtenant to the whole or any part of a dwelling which is used or capable of being used in connection with the dwelling.

2. The purpose of this Code is to establish standards governing the condition, occupancy and maintenance of residential property and providing safeguards for the safety, health and welfare of the general public and of occupants and users of residential property.
3.
 - (1) An officer appointed by a municipality to administer a by-law that adopts this Code has the right to enter, at all reasonable times, upon any property within the municipality for the purpose of making any inspection necessary for the administration or enforcement of the by-law.
 - (2) Where an officer mentioned in subsection (1) is refused admission to any property within the municipality, the officer may serve, or cause to be served, on the person having control of

the property a demand that the officer, named therein, be permitted to enter upon such property in accordance with subsection (1).

- (3) Service may be affected under subsection (2) by personal delivery to the person having control of the property or by depositing the demand in the mail in a prepaid registered envelope addressed to such person at his/her last known address.
- (4) The service of a demand by mail as provided for in subsection (3) is deemed to be complete upon the expiration of six days after the deposit thereof in the mails.
- (5) Proof of the service of a demand in either manner provided for in subsection (3) may be given by a certificate purporting to be signed by the officer which sets forth the name of the person on whom such demand was made and the time, place and manner of service thereof.
- (6) A document purporting to be a certificate of the officer made pursuant to subsection (5) shall:
 - (a) be admissible in evidence without proof of the signature; and
 - (b) be conclusive proof that the demand was served on the person named in the certificate.

4. A yard shall

- (a) be properly graded to ensure rapid drainage of storm water therefrom to prevent ponding therein or the entry of water into a basement or cellar;
- (b) be kept reasonably clean and free from rubbish or other debris and from objects, holes, excavations or other conditions that might create a health, fire or accident hazard; and

- (c) be maintained free of rag weed, poison ivy, poison sumac and other noxious plants.
- 5. (1) Sewage shall be discharged into a sewer system.
- (2) Inadequately treated sewage shall not be discharged onto the surface of the ground, whether into a natural or artificial surface drainage system or otherwise.
- 6. Steps, walks, driveways, parking spaces and similar areas of a yard shall be maintained so as to afford safe passage under normal use and weather conditions.
- 7. (1) Any accessory building shall be kept in good repair and free from any condition that constitutes or is apt to create a health, fire or accident hazard.
- (2) The exterior of any accessory building shall be kept weather resistant through the use of appropriate weather resistant materials, including paint and other preservatives.
- (3) Where an accessory building or any condition in a yard harbours noxious insects or rodents, all necessary steps shall be taken to eliminate them and to prevent their reappearance.
- (4) Dangerous accumulations of snow or ice or both shall be removed from the roof of an accessory building.
- (5) If an accessory building is not maintained in accordance with the standards mentioned in this section, it shall be removed from the yard.
- 8. (1) Every dwelling unit shall be provided with such receptacles as may be necessary to contain all garbage, rubbish and ashes that accumulate therein or in the yard.
- (2) Receptacles mentioned in subsection (1) shall:

- (a) be made of plastic or metal;
 - (b) be made of watertight construction;
 - (c) be provided with a tight-fitting cover; and
 - (d) be maintained in a clean state.
- (3) Garbage, rubbish and ashes shall be promptly stored in receptacles described in subsection (2), and shall be removed therefrom in accordance with regulations of the municipality where applicable or, otherwise, at least once during each week.
- (4) Materials of an inflammable nature shall be safely stored or removed at once from the residential property.
9. Every part of a dwelling 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.
10. (1) A foundation wall of a dwelling shall be maintained so as to prevent the entrance of moisture, insects and rodents.
- (2) Without restricting the generality of subsection (1), maintenance mentioned therein includes shoring of the wall where necessary, installing subsoil drains at the footing, grouting masonry cracks, waterproofing the wall and joists and using other suitable means of maintenance.
11. (1) An exterior wall of a dwelling and its components shall be maintained so as to prevent its deterioration as a result of weather and insects.
- (2) Without restricting the generality of subsection (1), maintenance mentioned therein includes painting, restoring or repairing the wall, coping or flashing, waterproofing joints or the wall itself,

installing or repairing termite shields, and using other suitable means of maintenance.

12. (1) A roof of a dwelling shall be maintained in a water-tight condition so as to prevent leakage into the dwelling.
- (2) Without restricting the generality of subsection (1), maintenance mentioned therein includes repairing the roof and flashing, applying waterproof coatings, installing or repairing eavestrough and rain water piping and using other suitable means of maintenance.
- (3) Dangerous accumulations of snow or ice or both shall be removed from the roof of a dwelling.
13. (1) Windows, exterior doors and basement or cellar hatchways of a dwelling shall be maintained so as to prevent the entrance of wind and precipitation into the dwelling.
- (2) Without restricting the generality of subsection (1), maintenance mentioned therein includes painting, renewing rotted or damaged doors, door frames, window frames, sashes and casing, refitting doors and windows, weather stripping, replacing defective door and window hardware, re-glazing and using other suitable means of maintenance.
14. (1) An inside or outside stair, or a porch, shall be maintained so as to be free of holes, cracks and any other condition that may constitute an accident hazard.
- (2) Without restricting the generality of subsection (1), maintenance mentioned therein includes repairing or replacing
 - (a) treads or risers that show excessive wear or are broken, warped or loose; and
 - (b) supporting structural members that are rotted or deteriorated.

Town of Sussex

Schedule "A"

By-Law # 701-19

Page 7 of 12

- (3) On an open side of a stairway, balcony, landing or stairwell, a handrail or banister shall be installed so as to provide reasonable protection against accident or injury.
- 15. (1) Every chimney, smoke pipe and flue servicing a dwelling shall be maintained so as to prevent gases from leaking into the dwelling.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes cleaning the flue of obstructions, sealing open joints, repairing masonry and using other suitable means of maintenance.
- 16. (1) Every fireplace used or intended to be used in a dwelling for burning fuel in open fires shall be maintained so that adjacent combustible material and structural members will not be heated to unsafe temperatures.

(2) Without limiting the generality of subsection (1), maintenance mentioned therein includes securing connection to a chimney that complies with standards hereof, lining with fire-resistant material, repairing and relining and installing, repairing and replacing the hearth.
- 17. (1) Every interior wall and ceiling in a dwelling shall be maintained so as to be free of large holes or cracks and loose plaster or other material, the collapse of which might cause injury.

(2) Without restricting the generality of subsection (1), maintenance mentioned therein includes repairing or filling holes and cracks and removing and replacing loose or defective sections.

(3) The surface of wall or ceiling mentioned in subsection (1) shall be finished so as to be reasonably smooth, clean, tight and easily cleaned.
- 18. (1) Subject to Section 19, every floor in a dwelling shall be maintained so as to be free of loose, warped, protruding, broken

or rotted boards that might cause an accident or admit rodents into the dwelling.

- (2) Without restricting the generality of subsection (1), maintenance mentioned therein includes repairing or replacing floor boards and repairing, replacing or removing any floor covering that has become unduly worn or torn so that it retains dirt.
19. (1) A bathroom floor or toilet floor shall be maintained so as to be reasonably impervious to water and to permit easy cleaning.
- (2) Without restricting the generality of subsection (1), maintenance mentioned therein includes installing, repairing refinishing and replacing the floor or floor covering so as to provide the waterproof and cleaning conditions required.
20. In addition to other standards pertaining thereto, every floor, wall, ceiling, furnishing and fixture in a dwelling or dwelling unit shall be maintained in a clean and sanitary condition.
21. (1) A dwelling shall be kept free of rodents and insects at all times and methods used for exterminating rodents or insects or both shall conform with generally accepted practice.
- (2) A basement or cellar window used or intended to be used for ventilation, and any other opening in a basement or cellar that might let in rodents, shall be screened with wire mesh or such other material as will effectively exclude rodents.
- (3) During the time of year when insects may enter a dwelling, each outside door shall be equipped with a self-closing device and every opening that opens to outdoor space, used or intended to be used for ventilation, shall be appropriately screened with wire mesh or such other material as will effectively exclude insects.
22. (1) Plumbing is not required to be contained in a dwelling or dwelling unit but, where it is so contained, it shall be connected

Town of Sussex

Schedule "A"

By-Law # 701-19

Page 9 of 12

to a sewer system in such manner as to discharge all wastes therefrom into such system.

- (2) All plumbing, whether a drain pipe, water pipe, water closet, connecting line to the sewer system, or any other plumbing fixture, shall be maintained in good working order and free from leaks and defects.
23. (1) Where a dwelling contains plumbing, the following shall be supplied and maintained in good working order, connected to the sewer system, and accessible to and available for each ten or fewer persons or each family occupying the dwelling:

 - (a) a toilet, served with cold running water;
 - (b) a wash basin, served with hot and cold running water; and
 - (c) a bathtub or shower, served with hot and cold running water.
- (2) Where a dwelling does not contain plumbing, toilet and bathroom facilities shall be supplied and maintained at a standard and in a manner which, in the opinion of a District Medical Health Officer, does not constitute a health hazard and is not apt to create such hazard.
- (3) Where a toilet is required by subsection (1), it shall be located within and accessible from within the dwelling.
- (4) Where a toilet or urinal is used by the occupants of more than one dwelling unit, the room in which it is located shall be accessible only from a common hall.
- (5) A toilet or urinal shall not be located within a room that is used for

 - (a) the preparation, cooking, storing or consumption of food; or

- (b) sleeping purposes.
- (6) A wash basin served by running water draining into a sewer system shall be located in the room that contains a toilet or in an adjoining room.
- 24. In a dwelling unit which contains plumbing, each dwelling unit shall be supplied with hot and cold running water facilities with a draining sink connected to the sewer system, a continuous supply of hot and cold running water and all such facilities shall be maintained in good working order.
- 25.
 - (1) No gas appliance of any kind may be installed or maintained in working condition with a gas supply in a room used or intended to be used for sleeping purposes.
 - (2) No person may use a room for sleeping purposes, or permit its use for such purpose, if the room contains any type of gas appliance in working condition with a gas supply.
 - (3) Where a heating system or part of it or any auxiliary heating system burns solid or liquid fuel, a place or receptacle for storage of the fuel shall be provided and maintained in a convenient location and properly constructed so as to be free from fire or accident hazards.
- 26.
 - (1) All electrical wiring, equipment and appliances located or used in a dwelling shall be installed and maintained in good working order so as not to cause a fire or electrical shock hazard.
 - (2) Without restricting the generality of subsection (1), maintenance mentioned therein includes repairing or replacing defective wiring and equipment, installing additional circuits and any other repairs, alterations or installations required by or which may be required pursuant to regulation under the Electrical Installation and Inspection Act.

Town of Sussex

Schedule "A"

By-Law # 701-19

Page 11 of 12

- (3) When the capacity of a circuit within a dwelling or dwelling unit is in full or nearly full use, as indicated by the amperage or wattage requirements shown on the appliance or appliances in use, no person shall use an additional appliance so as to increase the use beyond the capacity of the circuit.
27.
 - (1) In a dwelling unit in which the occupants prepare food for their own consumption, or are intended to or are permitted to so prepare food, a suitable and convenient receptacle for storage of food, containing at least 0.4 cubic metres of space, shall be maintained in good repair and in a clean state.
 - (2) Some part of the storage space mentioned in subsection (1) shall be capable of sustaining a temperature low enough to preserve perishable foods for a reasonable time.
28. Every dwelling and each dwelling unit within it shall have a safe, continuous and unobstructed passage from the interior of the dwelling or dwelling unit to the outside of the dwelling at street or grade level.
29.
 - (1) A source of light, such as a window, skylight, transparent or translucent panel, or a combination thereof, that faces directly on open space at least one metre wide and at least fifteen centimetres above the adjoining finished grade or above an adjoining roof, and that admits as much natural light as would be transmitted through clear glass equal in area to ten percent of the floor area of the room, shall be provided and maintained in good repair in every habitable room.
 - (2) The open space opposite a source of light shall not be obstructed in any way and, if it is obstructed, the light source facing the open space so obstructed shall not be included in calculating the area of light source for the room.
 - (3) Every bathroom and toilet room shall have a permanently installed artificial lighting fixture that shall be maintained in good working order.

Town of Sussex

Schedule "A"

By-Law # 701-19

Page 12 of 12

- (4) Every stairway, hall, cellar and basement, and every laundry room, furnace room and similar non-habitable work room in a dwelling shall have adequate artificial light available at all times.
30.
 - (1) Every habitable room, bathroom and toilet room shall have adequate ventilation.
 - (2) Where an aperture such as a window, skylight or louver is used for ventilation, the aperture shall be maintained so as to be easily opened, kept open and closed.
 - (3) Where a dwelling or dwelling unit is ventilated by a system of mechanical ventilation or air conditioning, the system shall be maintained in good working order.
31.
 - (1) A non-habitable room shall not be used as a habitable room.
 - (2) A dwelling unit shall have a least 9.3 square metres of habitable room floor area for each person resident therein.
 - (3) Subject to subsection (5), a habitable room used for sleeping purposes shall have a floor area of at least
 - (a) 5.6 square metres, if so used by only one person; and
 - (b) 3.5 square metres per person, if so used by more than one person.
 - (4) A habitable room shall be 2.2 metres in height over at least one half of the floor area.
 - (5) For the purposes of computing a floor area under subsection (3), any part of the floor under a ceiling that is less than 1.5 metres above the floor shall not be counted.