

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

BY-LAW 18-2016

**A BY-LAW TO REQUIRE THE OWNERS OF YARDS WITHIN THE TOWN OF DEEP RIVER TO CLEAN AND CLEAR THEM**

**Recitals**

1. Section 127 of the *Municipal Act, 2001*, authorizes the councils of municipalities to pass By-Laws to require the cleaning or clearing of the land, not including buildings, or to clear refuse or debris from the land, not including buildings
2. Section 10 of the *Municipal Act, 2001*, authorizes the councils of municipalities to pass By-Laws for the health, safety and well-being of persons.
3. Section 391 of the *Municipal Act, 2001*, authorizes the councils of municipalities to impose fees or charges for services rendered.
4. Council considers it advisable to regulate the cleaning and clearing of properties within the Town of Deep River.

**Accordingly, the Council of The Corporation of the Town of Deep River enacts this By-Law 18-2016.**

1. **Definitions:** In this by-law:
  - 1.1. **“Building”** includes:
    - a) a structure occupying an area greater than ten (10) square metres (equivalent to 108 square feet) consisting of a wall, roof and floor or any of them or a structural system serving that function, including all plumbing, works, fixtures and service systems appurtenant to it;
    - b) a structure occupying an area of ten (10) square metres (equivalent to 108 square feet) or less, that contains plumbing, including the plumbing appurtenant to it; and
    - c) any structure designated in the Ontario Building Code as a “building”.
  - 1.2. **“By-Law”** means this By-Law, as it may be amended from time to time. The Recitals to, and the Schedules attached to this By-Law are considered integral parts of this By-law.
  - 1.3. **“Council” or “Town Council”** means the municipal council for the Town of Deep River.
  - 1.4. **“Composting Container”** means an approved container capable of enclosing composting materials in a neat and odour free condition.
  - 1.5. **“Debris”** includes the following:
    - a) material of any kind which has been discarded by its rightful owner;
    - b) a composting heap or composting heaps, which is/are not properly contained in a composting container or composting containers for efficient composting purposes, including tree or brush cuttings;
    - c) litter;

- d) waste, which includes pet excrement;
- e) items which cannot be used for their rightful or originally intended purpose due to their placement or situation;
- f) an unlicensed item or unlicensed items;
- g) inoperative vehicle or inoperative vehicles;
- h) construction debris;
- i) a shipping container or shipping containers;
- j) recovered or recycled materials including firewood, which are haphazardly strewn about and not stored or piled neatly;
- k) weeds and/or grass, which exceeds 203 mm (8") in height;
- l) dead and/or decaying trees, that due to their location or situation on private property may be a health or safety hazard to public property or the users of public property;

Note: **Section 1.5 (k)** shall not apply to lands zoned Open Space, or Environmental Protection.

- 1.6. **"Dwelling"** means a building or structure, any part of which is or is intended to be used for the purpose of human habitation and includes a building that would be used or intended to be used for such purposes.
- 1.7. **"Lot"** means a separately transferable parcel of land in any zone as defined within the Town of Deep River Zoning By-law save and except lands zoned Open Space or Environmental Protection.
- 1.8. **"Naturalization"** means a recognized practice of gardening that encourages the introduction and use of native species through generally accepted landscape practices. Naturalization does not mean neglect or disregard to the maintenance of property.
- 1.9. **"Notice"** means the written notice referenced in Section 5 of this By-Law.
- 1.10. **"Occupier"** means any occupant of the property in question with authority to act on behalf of the registered owner/occupier; any person authorized by the registered owner to act on his or her behalf; any lessee or occupant of the property who, under the terms of a lease or occupancy agreement, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property; and any mortgagee or receiver and manager or trustee in bankruptcy with possession and control of the property.
- 1.11. **"Officer"** means a person within the administration of the Town who has been appointed as an officer for the purposes of the enforcement of any or all of the Town's By-Laws.
- 1.12. **"Owner"** means the registered owner of the property in question identified in the Land Registry Office of the Ministry of Consumer and Commercial Relations.
- 1.13. **"Police Officer"** means a chief of police or any other police officer in a police service that is appointed for enforcing or carrying out the provisions of this by-law;
- 1.14. **"Public Property"** means any property owned by the federal government, provincial government or the Town of Deep River.

- 1.15. **“Standing Water”** means standing or stagnant water in a vessel, pool, container or other item capable of holding water where evaporation is the only means of evacuating the water, but does not include standing or stagnant water in a ditch, culvert, drainage work, agricultural field or other depression in the ground.
  - 1.16. **“Shipping Container”** means a container with strength suitable to withstand shipment, storage, and handling and is designed to be moved from one mode of transport to another without unloading and reloading the goods inside.
  - 1.17. **“Town”, “The Town of Deep River”** means The Corporation of the Town of Deep River and includes its entire geographic area.
  - 1.18. **“Vacant Lot”** means a Lot which contains no occupied buildings.
  - 1.19. **“Unlicensed Items”** means items which cannot be used for their rightful or originally intended purpose due to lack of license, registration or other requirement, including but not limited to insurance coverage and mechanical safety certificate. This definition excludes bona fide collectors' items or antiques (for example, classic cars), provided they are in the active process of being restored or preserved and stored neatly.
  - 1.20. **“Unsafe Debris”** means debris which is situated on private or public property in such a manner as to cause an immediate safety concern to members of the general public.
  - 1.21. **“Unsafe Standing Water”** means standing water which is situated on private or public property in such a manner as to cause an immediate safety concern to members of the general public.
  - 1.22. **“Yard”** means the land in common ownership with, and around or appurtenant to, a residential or non-residential building, which is used or capable of being used in connection with the property. The definition includes any land which is in common ownership with the lot on which the building is situate, and is actually used in connection with the property.
2. **Interpretation Rules:**
- 2.1. Wherever this By-Law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By-Law with the gender applicable to the circumstances.
  - 2.2. References to items in the plural include the singular, as applicable.
  - 2.3. The word “include” is not to be read as limiting the phrases or descriptions that precede it.
3. **Statutes:** References to laws in this By-Law are meant to refer to the Statutes, as amended from time to time, that are applicable within the Province of Ontario
4. **Severability:** If a court or tribunal of competent jurisdiction declares any portion of this By-Law to be illegal or unenforceable, that portion of this By-Law will be considered to be severed from the balance of the By-Law, which will continue to operate in full force and effect.

5. **Notice:** Where a Municipal Law Enforcement Officer becomes aware of a situation via complaint where the owner and/or occupier of a vacant lot, or a yard, has allowed debris or standing water to accumulate on that property, he or she may issue a written notice to that owner and/or occupier in accordance with this By-Law.

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 and the complainant's signature, to be provided for the purpose of evidence in the event that the matter proceeds to court.

- 5.1. **Contents of Notice:** The notice shall:
- a) give the address of the yard or vacant lot (or the legal description of the property) where the debris or standing water has accumulated;
  - b) define with reasonable particularity and detail the material or standing water on the yard or vacant lot which is considered to be debris;
  - c) prescribe a time period which is not less than 72 hours and is not more than thirty (30) days, within which the owner and/or occupier is required to remove the debris or standing water from the yard or vacant lot; and
  - d) prescribe notice regarding the administration fee charges.
- 5.2. **To Whom Notice is Sent:** The Notice shall be sent to every owner and/or occupier of the vacant lot or yard. The Notice shall be sent to the last known address of the owner and/or occupier registered with the Town of Deep River's Taxation Office.
- 5.3. **Method of Delivery of Notice:** The notice, and any subsequent written notice amending or withdrawing the notice, may be delivered by any one or more of the following methods:
- a) personal delivery to the person to whom it is addressed;
  - b) personal or couriered delivery to either an adult person, or to the mailbox, of the residential address of the addressee;
  - c) delivery by registered or certified mail;
  - d) delivery by facsimile transmission;
  - e) or posted in a weather-resistant fashion in a conspicuous location at the site which is the subject matter of the notice.
- 5.4. **Deemed Delivery:**
- a) Where a notice is personally delivered, it is considered to have been delivered at the date and time at which it was handed to the addressee.
  - b) Where a notice is personally delivered to the residential address of the addressee, it is considered to have been delivered on the next business day following the date of delivery.
  - c) Where a notice is delivered by registered or certified mail, it is deemed to have been delivered on the fifth day after the day of mailing.
  - d) Where a notice is delivered by facsimile, it is considered to have been delivered on the next business day following the date showing on the proof of transmission document.
  - e) Where a notice is posted on occupied property in accordance with section 5.3(e), it is considered to have been delivered the next business day following the date it is posted.

- f) Where a notice is posted on unoccupied property in accordance with section 5.3(e), it is considered to have been delivered five (5) days after the date it is posted.

5.5. **Amendment of Notice Time:** Where an owner and/or occupier is making reasonable effort to comply with a notice, but requires more time within which to complete the removal of the debris or standing water, the Manager of Municipal Law Enforcement or a Municipal Law Enforcement Officer may, in his or her discretion, approve up to two (2) time period extensions pursuant to this section of the By-Law. Each extension shall be for a time period no longer than thirty (30) days. In those circumstances, written notice of the change to the original notice shall be delivered to all persons who received the original notice.

5.6. **Withdrawal of Notice:** Where an owner and/or occupier has either complied with the notice within the appropriate time frame, or where a Municipal Law Enforcement Officer is satisfied that the owner and/or occupier has corrected the problem without necessarily strictly complying with the notice, the Municipal Law Enforcement Officer may withdraw the notice by sending written notice of the withdrawal to all persons who received the original NOTICE.

## 6. **Unsafe Conditions:**

6.1. **Unsafe Debris:** Where the circumstances of section 5, as applicable, exist, but where any part of the debris in question is unsafe debris, section 6.2 applies.

6.2. **Unsafe Standing Water:** Where the circumstances of section 5, as applicable, exist, but where any part of the standing water in question is unsafe standing water, section 6.2 applies.

6.3. **Immediate Action:** In circumstances of section 6.1 or section 6.2, a Municipal Law Enforcement Officer is specifically authorized to take immediate steps, or to cause immediate steps to be taken, to eliminate the danger associated with the unsafe debris or unsafe standing water and any costs expended shall be the responsibility of the owner or occupier of the subject property

6.4. **Limited Authorization:** The authorization provided by section 6.2 of this By-Law is limited only to such steps as are required to remove the unsafe standing water or the unsafe debris as the case may be.

6.5. **Cost Recovery:** Where section 6.2 of this By-Law is invoked, all costs associated with the work, including any Administration Fee, shall be added to the tax roll of the property from which the danger was eliminated, and shall be collected in like manner as municipal taxes as well as an administration fee as set out in Schedule "A" to this By-law.

## 7. **Offenses:**

7.1. No owner and/or occupier of a lot or yard shall allow debris or standing water to accumulate on their property.

7.2. The failure of any owner and/or occupier to comply with a notice within the time frame specified in that notice, subject to sections 5.5 and 5.6 of this By-Law, constitutes an offence.

- 7.3. No person shall hinder or obstruct, or attempt to hinder or obstruct, any person exercising a power or performing a duty under this By-Law.
8. **Enforcement:** This By-Law may be enforced by every Municipal Law Enforcement Officer or Police Officer.
9. **Penalty:** Any person who contravenes any provision of this By-Law is guilty of an offence, and upon conviction, is liable to a fine in accordance with the provisions of the Provincial Offences Act, 1990 c.P33 and to any other applicable penalty.
10. **Court Order:** If this By-Law is contravened and a conviction entered, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an order prohibiting the continuation or repetition of the offence by the person convicted.
11. **Town May Complete Work:** Where an owner and/or occupier fails to comply with a notice within the specified time frame (subject to amendment in accordance with Section 5.5 or withdrawal in accordance with section 5.5, a Municipal Law Enforcement Officer may, in addition to any enforcement of this By-Law, cause the Town's forces or contracted forces to complete the work required by the notice, without further notice to the owner and/or occupier.
12. **Cost Recovery:** Where Section 10 of this By-Law is invoked, all costs associated with the work shall be added to the tax roll of the property which is the subject matter of the notice and shall be collected in like manner as municipal taxes as well as an administration fee as set out in Schedule "A".
13. **Administration of By-Law:** Unless otherwise indicated in this By-Law, the administration of this By-Law is assigned to the Municipal Law Enforcement Officer, who may delegate the performance of any of the Municipal Law Enforcement functions under this By-Law from time to time as required.
14. **Effective Date:** this By-Law shall come into force on the date it is finally passed.

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

  
MAYOR

  
CLERK

# SCHEDULE "A"

## PRESCRIBED ADMINISTRATION FEES

OCCURRENCE	FEE
Initial First Inspection	No Fee
Initial Final Inspection	No Fee
Second Offence Inspection	No Fee
Second Offence Final Inspection	\$100.00
Third Offence Inspection	No Fee
Third Offence Final Inspection	\$200.00
Fourth Offence Inspection	No Fee
Fourth Offence Final Inspection	\$400.00
Fifth Offence Inspection	No Fee
Fifth Offence Final Inspection	\$800.00

Note: For all subsequent offences to the fifth offense, the Final Inspection Fee shall be multiplied by two times the previous final inspection fee levied.

Note: Where change to the ownership or occupation of the property as the case may be, transpires and the owner or occupier at the time of the offense as the case may be, ceases to be an owner or occupier of the subject property as the case may be, the occurrence cycle shall be reset to zero offences.

**Town of Deep River**

***PART 1 Provincial Offences Act***

**By-law No. 18-2016**

Town of Deep River By-law 18-2016, A By-law to Require the Owners of Yards with the Town of Deep River to Clean and Clear Them

<b>ITEM</b>	<b>COLUMN 1 Short Form Wording</b>	<b>COLUMN 2 Provision Creating or Defining Offence</b>	<b>COLUMN 3 Set Fine</b>
1.	Owner and/or occupier – Allow debris to accumulate on property	7.1	\$400.00
2.	Owner and/or occupier – Allow standing water to accumulate on property	7.2	\$400.00

- NOTE\* The penalty provision for the offences indicated above is Section 61 of the *Provincial Offences Act*, R.S.O. 1990, c. P.33.