

Pursuant to the powers vested in it, the Public Works Committee of Council in session convened on this 28th day of January, A.D., 2013, hereby enacts the following By-Law relating to standards for the maintenance and occupancy of commercial property within the Town of Lewisporte and prohibiting the use of such commercial property that does not conform to the prescribed standards.

**TOWN OF LEWISPORTE
COMMERCIAL MAINTENANCE BY-LAW**

1. This By-Law may be cited as the Town of Lewisporte's Commercial Maintenance By-Law.
2. This By-Law shall apply within the limits of the Town of Lewisporte.

DEFINITIONS

3. For the purpose of this By-Law unless the context otherwise requires:
 - (1) "accessory building" means a detached subordinate building on the same lot as the main building.
 - (2) "balustrade" means a row of balusters or spindles surmounted by a railing.
 - (3) "Town" shall mean the Town of Lewisporte.
 - (4) "Council" shall mean the Town of Lewisporte Municipal Council.
 - (5) "commercial property" shall mean any property or building that is used or designed for use for business, commercial, industrial or institutional purposes.
 - (6) "inspector" means any official or employee of the Town or other person or persons designated by the Town of Lewisporte to enforce the provisions of this By-Law.
 - (7) "land" means the land around and appurtenant to the whole or any part of a commercial property.
 - (8) "multi use building" means a building containing both a dwelling unit and non-residential property.
 - (9) "Order" means a notice of violation and order to clean, demolish or repair a building or commercial property.
 - (10) "Owner" shall -
 - (a) include for all purposes an agent receiving or entitled to receive the rentals of or having the care or management of any such property belonging to an owner absent

from Newfoundland provided that such agent shall incur no personal liability for any breach by his principal of any of the provisions of this act in relation to such property unless, after being required by the Council in writing to make good such breach, he parts with monies of his principle then in or from time to time coming into his hands without retaining thereout an amount sufficient to enable him to make good such breach including penalties thereof, if any;

(b) means in the case of property held under a building lease, the lessee or his assignee, including in the term "assignee" a sub-tenant for the whole or substantially the whole term thereof, not being a mortgagee;

(c) does not include a mortgage merely because his mortgage vests the legal estate in him, but does include a mortgagee in possession;

(d) includes a tenant without a written lease.

(11) "standards" mean the standards set out in Parts 1 and 2 of this By-Law.

(12) "toilet room" means a room containing a water closet and a wash basin.

LANDS

4. (1) The lands shall be kept clean and free from rubbish or other debris and from objects or conditions that might create a health, fire or accident hazard.

(2) No vehicle, trailer, boat or mechanical equipment which is in a wrecked, discarded or dismantled condition shall be parked, stored or left on the lands. Where a business requires outdoor storage for any purpose, the area shall be defined and enclosed with a screened fence.

(3) All lands not used for vehicular or pedestrian traffic shall be landscaped and provided with an acceptable ground cover to prevent erosion. Landscaping shall be designed to drain storm and surface water in a manner acceptable to the inspector. Landscaping shall be maintained in a manner acceptable to the inspector provided however that landscaping for new construction commenced after September 20, 2004, shall be maintained in accordance with the landscape plan and/or development agreement approved with respect to the lands.

(4) The lawns, hedges and bushes on the lands shall be kept trimmed.

(5) The inspector shall have power to enter upon any land or premises where he knows or suspects any matter or thing is placed or kept in violation of this section, and order the removal, disposal or abatement by the owner or tenant of any such land or premises or both of them of any such dilapidated or unsightly machine, vehicle, building matter or thing or any such litter or refuse within such period as the inspector may determine, and if such order is not complied with, the person on whom such order is served shall be liable to all the penalties provided by this By-Law for such non-compliance, and in addition the inspector shall have power himself, his contractors, servants or agents to remove any such unsanitary matter or

any such machine, vehicle, building matter or thing or any litter of refuse, the cost of which may be recovered in any court by the Town from the owner of such land or premises.

(6) All lands, premises and buildings, including accessory buildings, fences and signs, shall be kept free from graffiti.

SEWERAGE AND DRAINAGE

5. (1) Sewerage or organic waste of commercial properties shall be discharged into a sewerage system in accordance with all applicable laws and regulations of Council.

(2) Rain water from any roof of a commercial property shall be conveyed to a storm sewer. If such a storm sewer is not available to the land, the rain water shall be disposed of in such a manner as not to create a nuisance.

(3) Storm water shall be drained from the lands so as to prevent recurrent ponding or the entrance of water into a basement or cellar.

ACCESSORY BUILDINGS

6. (1) An accessory building shall be kept in good repair and free from health, fire and accident hazards.

(2) Where an accessory building or the land may harbour noxious insects or rodents, all necessary steps shall be taken to eliminate the insects or rodents and to prevent their reappearance.

(3) Where a mobile structure has been modified to create an accessory building the resultant accessory building shall comply with the National Building Code of Canada and its architectural style shall conform with that of the primary structure to which it is subordinate.

FENCES AND LITTER

7. (1) Eating establishments shall keep their land and premises clean and free of litter, garbage, cartons, wrappers, paper, rubbish and other debris and shall provide on the premises such number of suitable garbage containers as the inspector may require.

(2) All fences around or on non-residential property shall be kept in good repair, free from accident hazards and protected by paint, preservative or other weather resistant material.

SIGNS

8. All signs and billboards on the lands or commercial properties shall be maintained in good repair and any signs which are excessively weathered or faded, or those upon which the paint has excessively peeled or cracked shall, with their supporting members, be removed or put into a good state of repair.

GARBAGE DISPOSAL

9. (1) Each commercial property shall have sufficient receptacles to contain all garbage, rubbish, ashes and trade waste. Where such receptacles are located outdoors the receptacles shall be surrounded by an enclosure or vegetation that effectively screens such receptacles from view.

(2) The design, construction and location of garbage receptacles and screening referred to in Section 9 (1) shall be approved by the inspector and shall be maintained at all times in a clean and sanitary condition.

(3) Every commercial property shall have rodent proof storage space for garbage and other wastes.

(4) The lands of every commercial property shall be kept free of refuse and litter.

FOUNDATIONS

10. (1) The foundation, walls and basement, cellar or crawl space floor in a commercial property shall be maintained in good repair and structurally sound and where necessary shall be so maintained by shoring of the walls, installing subsoil drains at the footing, grouting masonry cracks, parging and water-proofing the walls or floor.

(2) Every commercial property unless of the slab-on-grade type shall be supported by, foundation walls or piers which extend below the frost line or to solid rock and all footings, foundation walls, piers, slab-on-grade shall be of masonry or other suitable material.

(3) Subsection (2) does not apply to accessory buildings and non-habitable buildings.

STRUCTURALLY SOUND

11. (1) Every part of a commercial property shall be maintained in a structurally sound condition so as to be capable of sustaining safely its own weight and any load to which it may be normally subjected to.

(2) Materials of a commercial property which have been damaged or show evidence of dry rot or other deterioration shall be repaired or replaced.

(3) Exterior walls, roofs and other parts of a commercial property shall be free from loose and unsecured objects and any materials, and improperly secured objects and material shall be removed, repaired or securely replaced.

(4) All exterior exposed surfaces of a commercial property not inherently resistant to deterioration shall be treated with a protective coating of paint or otherwise repaired, coated, sealed or treated, to protect them from deterioration or weathering.

EXTERIOR WALLS

12. (1) The exterior walls of all commercial properties and their components shall be maintained so as to prevent their deterioration due to weather and insects, and shall be maintained by the painting, restoring, or repairing of the walls, coping or flashing, by the water-proofing of joint and of the walls themselves.

(2) All canopies, marquees, signs, awnings, stairways, fire escapes, stand pipes, exhaust ducts and similar overhang extensions of commercial properties shall be maintained in good repair, be properly anchored and shall be protected from the elements and against decay and rust by the periodic application of a weather coating material such as paint or other protective treatment.

(3) All cornices, entablatures, belt courses, corbels, terra-cotta trim, wall facings and similar decorative features of commercial properties shall be maintained in good repair with proper anchorage and in a safe condition.

(4) All air conditioners of or in commercial properties which are installed and operated directly over a public sidewalk shall be equipped with proper devices for the prevention of condensation drainage upon the sidewalk.

(5) Where mechanical ventilation is used in or for a commercial property, the ventilating duct which is on the exterior wall shall not be located closer than six feet from a window located in an adjoining building.

ROOF

13. A roof, including the fascia board, soffit and cornice of commercial properties shall be maintained in a watertight condition so as to prevent leakage of water into the building.

DOORS AND WINDOWS

14. (1) All exterior openings in commercial properties shall be fitted with doors and windows.

(2) Windows, exterior doors and basement or cellar hatchways of commercial properties shall be maintained in good repair so as to prevent the entrance of wind or rain into the dwelling.

(3) Rotted or damaged doors, door frames, window frames, sashes and casings, weather stripping, broken glass and defective door and window hardware of commercial properties shall be repaired or replaced.

(4) All materials used for boarding up vacant buildings shall be covered and maintained with preservative which is colour coordinated to the exterior of the building.

STAIRS

15. An inside or outside stair and any porch appurtenant to it shall be maintained in every commercial property so as to be free of holes, cracks and other defects which may constitute possible accident hazards and all treads or risers that show excessive wear or are broken, warped or loose, and all supporting structural members that are rotted or deteriorated shall be repaired or replaced.

WALLS AND CEILINGS

16. (1) Every wall and ceiling of commercial properties shall be maintained so as to be free of holes, cracks, loose coverings or other defects which would permit flame or excessive heat to enter the concealed space.

(2) Where occupancies in a commercial property are separated vertically, the dividing walls shall be continued in the basement from the top of the footings to the underside of the finished floor surface, and in the attic from the top of the finished ceiling surface to the underside of the finished roof surface and such walls shall consist on each side of two half inch layers of gypsum wallboard or material of equivalent fire resistance rating and all cracks or openings shall be tightly sealed with caulking of mineral wool or similar non-combustible material.

FLOORS

17. (1) Every floor in every commercial property shall be smooth and level and be maintained so as to be free of all loose, warped, protruding, broken or rotted boards that might cause an accident or allow dirt to accumulate, and all defective floor boards shall be repaired.

(2) In every commercial property where floor boards have been covered with linoleum or some other covering that has become worn or torn so that it retains dirt or might cause an accident, the linoleum or other covering shall be repaired, replaced or removed.

(3) Every bathroom, toilet room or shower room in every commercial property shall have a floor of water repellant construction with a base molding at least two inches in height, except at the door opening.

CLEANLINESS

18. Every floor, wall, ceiling, fixture, appliance and equipment in every commercial property shall be maintained in a clean and sanitary condition as is appropriate to the use which is being made of the building.

RESPONSIBILITY OF THE TENANT

19. Subject to the provisions of any lease, the tenant of a commercial property shall:

- (1) Maintain that part of the non-residential property which he occupies or controls in a clean, sanitary and safe condition.
- (2) Maintain all plumbing fixtures and appliances as well as other building equipment and storage facilities in that part of the premises which he occupies, or controls, in a clean and sanitary condition, and provide reasonable care in the operation and use thereof.
- (3) Maintain a safe, continuous and unobstructed exit from the interior of the building to the exterior at street or grade level.
- (4) Dispose of garbage and refuse into provided facilities in a clean and sanitary manner, in accordance with the provisions and By-Laws of the Town of Lewisporte.
- (5) Exterminate insects, rodents, and other pests within his building.
- (6) Maintain lands in a clean, sanitary and safe condition and free from infestation insofar as he occupies or controls said non-residential property and any parts thereof.
- (7) Make available containers for the disposal of refuse which may be discarded by customers and keep the lands and surrounding property free of such refuse.

PENALTY

20. Any person who contravenes the provisions of this By-Law shall be guilty of an offense and liable upon summary conviction to a penalty.

21. (1) Where any commercial property is not kept in repair and maintained in accordance with the standards and provisions of this By-Law, and thereby in the opinion of the inspector, the commercial property or part thereof is unfit for habitation, the commercial property or part thereof shall, if Council so orders, be vacated within thirty (30) days after the delivery of an order to the owner or the posting of a notice in a conspicuous place on the commercial property stating that the said commercial property or part thereof shall not thereafter be used for human occupation again until the placard or notice is removed by the inspector and he issues a certificate that the dwelling or dwelling unit conforms to the standards.

(2) Notwithstanding anything to the contrary contained in this section of this By-Law, where any commercial property or part thereof is not kept in repair and maintained in accordance with the standards and provisions of this By-Law, and thereby in the opinion of the inspector the commercial property or part thereof is unfit for human occupation and constitutes an immediate hazard to life, the said commercial property or part thereof as the case may be, shall be immediately vacated by order of the Inspector after the delivery of an order to the owner or the posting of a notice in a conspicuous place on the commercial property stating the same is unfit for human occupation and constitutes an immediate hazard to life, and that such commercial property shall not, after such date stated on such notice, be used for human occupation again until the placard or notice is removed by the inspector and he issues a certificate that the commercial property conforms to the standards.

22. Where in the opinion of the inspector any commercial property does not conform to the standards or to the provisions of this By-Law, or any land used and enjoyed therewith is required to be cleared of all buildings and structures and left in a graded and level condition, the Town shall cause the inspector to send by registered mail to or serve on the owner and all persons known by the Town to have an interest in the commercial property and upon the occupant thereof, if any, a notice which if sent by mail shall be mailed the same day it is dated, stating that the commercial property does not comply with the standards, and that the repairs are required to be made thereto giving reasonable particulars of the repairs required to be made, or that the land must be cleared and left in a graded leveled condition and stating the period of time within which the repairs are to be made or the clearing is to be done, and that, if the repair or clearance is not so done within the period of time specified, the Town may carry out the repair or clearance and the cost of the work done may be levied against the owner of such commercial property as a debt due to the Town or charged against the land concerned as taxes due and owing in respect to that land and the Town may sue for and recover the cost of such repair or clearance.

23. (1) The National Building Code of Canada, 2005, any Supplements to the National Building Code of Canada, 2005 and the Administrative Requirements for the use with The National Building Code of Canada, 2005, are hereby declared to be, and shall be taken as part and parcel of this By-Law from the date of passing this By-Law as if same were repeated herein in full. Provided that if any section or part thereof of the said Code and Supplements shall conflict with any other section of this By-Law, then the provisions of the said Code and Supplements shall prevail.

(2) The National Fire Code of Canada, 2005, is hereby declared to be, and shall be taken as part and parcel of this By-Law from the date of passing of this By-Law as if same were repeated herein in full. Provided that if any section or part thereof of the said Code and Supplements shall conflict with any other section of this By-Law, then the provisions of the said Code and Supplements shall prevail.

(3) The Life Safety Code, 2000, being Document 101 prepared by the National Fire Protection Association of the United States of America is hereby declared to be and shall be taken as part and parcel of this By-Law as if the same were repeated herein in full. Provided that if any section or part thereof of the said Code shall conflict with any other section of this By-Law, then the provisions of the Code shall prevail.

(4) Notwithstanding Sections 22 (1), 22 (2), and 22 (3), daycare occupancies will be treated as Class A occupancies.

(5) Where the requirements of the Life Safety Code, 2000, conflict with the requirements of the National Building Code of Canada, 2005, then the National Building Code of Canada, 2005, shall prevail.