

THE CORPORATION OF THE TOWN OF OAKVILLE

BY-LAW NUMBER 2022-032

A by-law to amend Property Standards By-law 2017-007, as amended
(Administrative Penalties)

WHEREAS under s. 15.1(3) of the Building Code Act, 1992, S.O. 1992, c. 23 a by-law may be passed by the Council of a municipality prescribing standards for the maintenance and occupancy of property within a municipality; prohibiting the occupancy or use of such property that does not conform with the standards to be repaired and maintained to conform with the standards, providing that the official plan for the municipality includes provisions relating to the property conditions;

WHEREAS section 15.4.1(1) of the Building Code Act authorizes a municipality to require a person to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under the Building Code Act or an order that has been confirmed in accordance with the Building Code Act.

WHEREAS the Property Standards By-law 2017-007 was approved by Council on June 12, 2017;

WHEREAS Council is desirous of amending the Property Standards By-law 2017-007.

COUNCIL ENACTS AS FOLLOWS:

1. Part 1 of By-law 2017-007 is hereby amended by adding the following definitions:

“Appear” means to attend in-person or participate remotely by telephone or by videoconference at the time, place, telephone number or videoconference link scheduled for review or by email for a review by a Screening Officer. The format will be determined by the Director in consultation with the Legal Department and “Appearing” has a similar meaning;

“Business Day” means a day from Monday to Friday inclusive, other than a holiday as defined in section 87 of the *Legislation Act, 2006*, S.O. 2006, c. 21, Schedule F, as amended from time to time;

“Director” means the Director of Municipal Enforcement Services, or designate;

“Hearing Officer” means a Hearing Officer appointed pursuant to Screening and Hearing Officer By-law 2015-091, as amended, or successor by-laws;

“Notice of Penalty and Due Date” means a letter sent by the Town to the person to whom the penalty notice was issued that includes the penalty notice number, the amount of the outstanding administrative penalty, any administrative fees and the due date for payment;

“Notice of Final Due Date” means a letter sent by the Town to the person to whom the penalty notice was issued that sets out the final date for payment of an administrative penalty and any administrative fees prior to these costs being recovered as set out in subsection 20.18.2 of this By-law;

“Penalty Notice” means a notice issued pursuant to Section 20.2 of this By-law;

“Rates and Fees Schedule” means the Town’s then current Rates and Fees Schedule approved by Council as part of the annual budget approval process;

“Screening Decision” means a decision or disposition made by a Screening Officer;

“Screening Officer” means a Screening Officer appointed pursuant to Screening and Hearing Officer By-law 2015-091, as amended, or successor by-laws;

2. Part 13, subsection 13.1.3 of By-law 2017-007 be amended by deleting “Towns Fee Schedule” and substituting “Rates and Fees Schedule” therefor.
3. The subsections in Part 15.1 of By-law 2017-007 be re-numbered to read 15.1.1, 15.1.2 and 15.1.3.
4. By-law 2017-007 be amended by adding the following new heading and subsections 15.2.1, 15.2.2, 15.2.3, 15.2.4, 15.2.5 and 15.2.6:

15.2 ORDER FEES

- 15.2.1 If an Officer has issued an Order under subsection 15.1.1 of this By-law and is satisfied that the same Person has contravened the same provision of this By-law for a second time within twenty-four (24)

months of the date the first Order is deemed to be confirmed by the Property Standards Committee or confirmed in accordance with subsection 16.1.3, the Officer may issue a second Order to the Person contravening the this By-law.

- 15.2.2 Upon issuance of a second Order in accordance with subsection 15.2.1 of this By-law, the Person shall be liable to pay an Order fee to the Town in the amount of \$100 or as revised in the Rates and Fees Schedule.
 - 15.2.3 If an Officer has issued an Order under subsection 15.2.1 of this By-law and is satisfied that the same Person has contravened the same provision of the this By-law for a third time within twenty-four (24) months of the date the second Order is deemed to be confirmed by the Property Standards Committee or confirmed in accordance with subsection 16.1.3, the Officer may issue a third Order to the Person contravening this By-law.
 - 15.2.4 Upon issuance of a third Order in accordance with subsection 15.2.3 of this By-law, the Person shall be liable to pay an Order fee to the Town in the amount of \$250 or as revised in the Rates and Fees Schedule.
 - 15.2.5 If an Officer has issued an Order under subsection 15.2.3 of this By-law and is satisfied that the same Person has contravened the same provision of this By-law for a fourth or subsequent time within twenty-four (24) months of the date the third Order is deemed to be confirmed by the Property Standards Committee or confirmed in accordance with subsection 16.1.3, the Officer may issue a fourth or subsequent Order to the Person contravening this By-law.
 - 15.2.6 Upon issuance of a fourth or subsequent Order in accordance with subsection 15.2.5 of this By-law, the Person shall be liable to pay an Order fee to the Town in the amount of \$500 or as revised in the Rates and Fees Schedule.
- 5. The subsections in Part 16.1 of By-law 2017-007 be re-numbered to read 16.1.1, 16.1.2, 16.1.3, and 16.1.4.
 - 6. Subsection 16.1.2 of By-law 2017-007 be deleted and the following substituted therefor:

16.1.2 The appeal fee as set out in the Rates and Fees Schedule must accompany the notice of appeal.

7. The following amendments are hereby made to Section 17.1 of By-law 2007-017:

- (a) the title of Section 17.1 be deleted and “**POWER OF THE TOWN IF ORDER NOT COMPLIED WITH**” be substituted therefor;
- (b) the word “municipality” be deleted in subsections 17.1.1 and 17.1.2 and the word “Town” be substituted therefor;
- (c) the words “A municipal corporation” be deleted in subsection 17.1.2 and the words “the Town” be substituted therefor and the number “14.4.1” be deleted and “17.1.1” be substituted therefor;
- (d) subsection 17.1.3 is hereby deleted and the following substituted therefor:

17.1.3 The Town shall have a lien on the land for the amount spent on the repair or demolition under 17.1.1 and the amount shall have a priority lien status as described in subsection 1(3) of the *Municipal Act, 2001*, as amended, and may be added to the tax roll and collected in the same manner as municipal taxes.

8. By-law 2007-017 be amended by the addition of the following new headings and subsections 20.2, 20.3, 20.4, 20.5, 20.6, 20.7, 20.8, 20.9, 20.10, 20.11, 20.12, 20.13, 20.14, 20.15, 20.16, 20.17, 20.18 and 20.19:

20.2 PENALTY NOTICE AND ADMINISTRATIVE PENALTIES

20.2.1 An Officer may issue a penalty notice to a person who the Officer is satisfied has failed to comply with:

- a) any provision of this By-law; or
- b) an order issued in accordance with Section 15.1 of this By-law as deemed confirmed or as confirmed or modified by the Property Standards Committee or a judge.

20.2.2 Each person who is issued a penalty notice in accordance with subsection 20.2.1 of this By-law shall be liable to pay an

administrative penalty to the Town in the amount of \$300 or as set out in the Rates and Fees Schedule.

- 20.2.3 If an Officer has issued a penalty notice under subsection 20.2.1 of this By-law and has reasonable cause to believe that the same person has contravened the same provisions of this By-law for a second time within twenty-four (24) months of the date the first penalty notice is deemed to be served, the Officer may issue a second penalty notice to the person.
- 20.2.4 Upon issuance of the second penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$400 or as revised in the Rates and Fees Schedule.
- 20.2.5 If an Officer has issued a penalty notice under subsection 20.2.3 of this By-law and has reasonable cause to believe that the same person has contravened the same provision of this By-law for a third or subsequent time within twenty-four (24) months of the date the second penalty notice is deemed to be served, the Officer may issue a third or subsequent penalty notice to the person.
- 20.2.6 Upon issuance of a third or subsequent penalty notice, the person shall be liable to pay an administrative penalty to the Town in the amount of \$500 or as revised in the Rates and Fees Schedule.
- 20.2.7 The penalty notice shall include the following information:
- (a) the date of the penalty notice;
 - (b) the penalty notice number;
 - (c) particulars of the contravention;
 - (d) the amount of the administrative penalty;
 - (e) information respecting the process by which the person may exercise the person's right to request a review of the administrative penalty; and
 - (f) a statement advising that an administrative penalty will, unless cancelled or reduced pursuant to the review process, constitute a debt of the person to the Town.

20.3 PAYMENT OF AN ADMINISTRATIVE PENALTY

20.3.1 No Officer may accept payment of an administrative penalty.

20.3.2 A person who has been issued a penalty notice shall:

- (a) pay the administrative penalty within 15 days after the date the penalty notice is deemed to be served; or
- (b) request that the administrative penalty be reviewed by a Screening Officer in accordance with Section 20.5 of this By-law.

20.3.3 Payment of an administrative penalty or an administrative fee can be made through a Town approved payment system. Partial payments or payment plans will not be accepted.

20.3.4 Payment of an administrative penalty must be received by the due date and will not be credited until received by the Town.

20.3.5 Where a person has paid an administrative penalty or an administrative fee that is cancelled or reduced by a Screening Officer or Hearing Officer, the Town shall refund the amount cancelled or reduced.

20.3.6 Once an administrative penalty has been paid, it shall not be subject to a review by a Screening Officer or a Hearing Officer or to any further review.

20.4 NON-PAYMENT OF AN ADMINISTRATIVE PENALTY

20.4.1 Where a penalty notice is served and the administrative penalty is not paid within 15 days of the date the penalty notice is deemed to be served:

- (a) the administrative penalty shall be deemed to be affirmed;
- (b) notwithstanding subsection 20.5.1 of this By-law, the person shall pay a late payment administrative fee as set out in the Rates and Fees Schedule; and
- (c) a Notice of Penalty and Due Date shall be sent to the person to whom the penalty notice was issued.

- 20.4.2 Where an administrative penalty and any applicable administrative fees are not paid within 30 days after the Notice of Penalty and Due Date is issued, a Notice of Final Due Date will be mailed to the person to whom the penalty notice was issued.

20.5 REVIEW OF AN ADMINISTRATIVE PENALTY BY SCREENING OFFICER

- 20.5.1 A person who is served with a penalty notice may request a review of the administrative penalty by a Screening Officer within 15 days after the date the penalty notice is deemed to be served under subsection 20.19 of this By-law.
- 20.5.2 If the person does not request either a review of the administrative penalty by a Screening Officer within 15 days after the date the penalty notice is deemed to be served under subsection 20.19 of this By-law or an extension of time to request a review by a Screening Officer within 45 days after the date the penalty notice is deemed to be served under subsection 20.19 of this By-law:
- (a) an administrative fee will be applied as set out in the Rates and Fees Schedule; and
 - (b) the administrative penalty shall be deemed to be affirmed.
- 20.5.3 The person requesting a review of the administrative penalty shall be notified:
- (a) that their request for a review has been received;
 - (b) of the date and time of the review; and
 - (c) of the way in which the review will be conducted according to subsection 20.5.4 of this By-law.
- 20.5.4 Upon receipt of the request for review, the Screening Officer shall determine the format to be used for the review, including but not limited to in-person, over the telephone, by email, or remotely by videoconference.
- 20.5.5 Written submissions to a Screening Officer relating to a scheduled screening review shall be submitted to the Screening Officer by 12:00 noon, one business day prior to the review.

20.6 EXTENSION OF TIME TO REQUEST REVIEW

- 20.6.1 A person may request that the Screening Officer extend the time to request a review of the administrative penalty within 45 days after the date the penalty notice is deemed to be served under subsection 20.19 of this By-law, failing which, the administrative penalty shall be deemed to be affirmed.
- 20.6.2 The Screening Officer may:
- (a) request such information from a person as the Screening Officer considers relevant to a request to extend the time to request a review of the administrative penalty; and
 - (b) extend the time to request a review of the administrative penalty when the person requesting the extension demonstrates extenuating circumstances for failing to take action that warrants the extension of time.
- 20.6.3 Where an extension of time to request a review is not granted by the Screening Officer, the administrative penalty is deemed to be affirmed.
- 20.6.4 A request for an extension of time to review an administrative penalty shall include the penalty notice number and the person's contact information.
- 20.6.5 The Screening Officer will consider the request for extension before reviewing the administrative penalty.

20.7 SCREENING DECISION

- 20.7.1 On a review of the administrative penalty, the Screening Officer may affirm the administrative penalty, or may cancel, reduce or extend the time for payment of the administrative penalty, including any additional administrative fees, on the following grounds:
- (a) where the person establishes, on a balance of probabilities that the person did not commit the act as described in the penalty notice; or
 - (b) the cancellation, reduction or extension of the time for payment of the administrative penalty, including any administrative fees, is necessary to reduce financial hardship.

- 20.7.2 The Screening Officer shall issue a decision to the person orally at the time of the review or thereafter by telephone, mail, or email using the contact information provided by the person. If applicable, the decision shall include the amount of the administrative penalty, any administrative fees to be paid and the final due date for payment.

20.8 FAIL TO REQUEST REVIEW OR EXTENSION OF TIME TO REQUEST A REVIEW

- 20.8.1 Where a person fails to request a review in accordance with subsection 20.5.1 of this By-law or an extension of time in accordance with subsection 20.6.1 of this By-law, the person shall be deemed to have waived the right to a screening and hearing and the administrative penalty shall not be subject to review.

20.9 FAIL TO APPEAR FOR SCREENING REVIEW

- 20.9.1 Where the person fails to appear at a review of an administrative penalty by the Screening Officer:
- (a) the person shall be deemed to have abandoned the review;
 - (b) the administrative penalty and any administrative fees shall be deemed to be affirmed;
 - (c) the administrative penalty and any administrative fees shall not be subject to review; and
 - (d) the person shall pay the applicable fee as set out in the Rates and Fees Schedule.

20.10 REVIEW OF SCREENING DECISION BY HEARING OFFICER

- 20.10.1 A person who has received a screening decision may request a review of the screening decision by a Hearing Officer within 15 days after the date the screening decision is deemed to be served under subsection 20.19 of this By-law.
- 20.10.2 Where no request by mail or email for a review of the screening decision by a Hearing Officer is received within 15 days after the date the screening decision is deemed to be served under subsection 20.19 of this By-law, the administrative penalty shall be deemed to be affirmed.

- 20.10.3 The person requesting a review of the screening decision shall be notified:
- (a) that their request for a review has been received;
 - (b) of the date and time of the review; and
 - (c) of the way in which the review will be conducted according to subsection 20.10.4 of this By-law.
- 20.10.4 Upon receipt of a request for review of the screening decision, the Director, in consultation with the Legal Department, shall determine the format to be used for the review, including but not limited to in-person, over the telephone, or remotely by videoconference.
- 20.10.5 A person may request a postponement of a scheduled review upon application to the Director, who may approve the request based on extenuating circumstances. An administration fee may be charged as set out in the Rates and Fees Schedule. At their discretion, the Hearing Officer may reschedule the review.
- 20.10.6 The Hearing Officer may request such information from a person as the Hearing Officer considers relevant to the request to review the screening decision.
- 20.10.7 Written submissions to a Hearing Officer related to a scheduled review of a screening decision and requests to participate in the review concerned shall be submitted to the Hearing Officer by 12:00 noon, one business day prior to the review.
- 20.10.8 A Hearing Officer shall not make any decision respecting a review of the screening decision unless the Hearing Officer has given the person and the Town an opportunity to be heard.
- 20.10.9 The Hearing Officer may amend the penalty notice as may be necessary if it appears that it fails to state or states defectively anything that is requisite to the violation. In considering whether or not an amendment should be made, the Hearing Officer shall consider whether the person has been misled or prejudiced by the error or omission and whether the proposed amendment can be made without injustice being done.

20.11 EXTENSION OF TIME TO REQUEST REVIEW

20.11.1 A person may request that the Hearing Officer extend the time to request a review of the screening decision. The request must be received within 45 days after the date the screening decision is deemed to be served under subsection 20.19 of this By-law, failing which, the screening decision shall be deemed to be affirmed.

20.11.2 The Hearing Officer may:

- (a) request such information from a person as the Hearing Officer considers relevant to a request to extend the time to request a review of the screening decision; and
- (b) extend the time to request a review of the screening decision when the person requesting the extension demonstrates extenuating circumstances that warrant the extension of time.

20.11.3 Where an extension of time to request a review is not granted by the Hearing Officer, the screening decision shall be deemed to be affirmed.

20.11.4 A request for an extension of time to review by the Hearing Officer shall include the penalty notice number, the person's contact information and the reason the person requires an extension of time to request a review of the screening decision.

20.11.5 The Hearing Officer will consider the request for extension before reviewing the decision of the Screening Officer.

20.12 DECISION OF THE HEARING OFFICER

20.12.1 On a review of the screening decision, the Hearing Officer may affirm the screening decision, or may cancel, reduce or extend the time for payment of the administrative penalty, including any administrative fees, on the following grounds:

- (a) where the person establishes, on a balance of probabilities that the person did not commit the act as described in the penalty notice; or

- (b) the cancellation, reduction or extension of the time for payment of the administrative penalty, including any administrative fees, is necessary to reduce financial hardship.

20.12.2 The Hearing Officer's decision shall be issued to the person orally at the time of the review or thereafter by telephone, mail, or email using the contact information provided by the person.

20.12.3 The decision of the Hearing Officer is final.

20.13 FAIL TO REQUEST REVIEW OR EXTENSION OF TIME TO REQUEST A REVIEW

20.13.1 Where a person fails to request a review of the screening decision or extension of time before the Hearing Officer in accordance with this By-law:

- (a) the person shall be deemed to have waived the right to a hearing;
- (b) the screening decision, the administrative penalty and any administration fees shall be deemed to be affirmed; and
- (c) the screening decision, the administrative penalty and any administrative fees shall not be subject to any further review.

20.14 FAIL TO APPEAR FOR REVIEW OF SCREENING DECISION

20.14.1 Where a person fails to appear for a review of a screening decision by the Hearing Officer:

- (a) the person shall be deemed to have abandoned the hearing;
- (b) the screening decision, administrative penalty and any administration fees shall be deemed to be affirmed;
- (c) the screening decision, administrative penalty any administration fees shall not be the subject of any further review; and
- (d) the person shall pay the applicable fee as set out in the Rates and Fees Schedule.

- 20.14.2 Should a person fail to appear at the review by the Hearing Officer, the person shall be sent a notice setting out the administrative penalty, any administrative fees to be paid and the final due date for payment.

20.15 EXTENSION OF TIME TO PAY

- 20.15.1 A person who receives a penalty notice and is appearing before the Screening Officer or Hearing Officer may request an extension of time to pay the administrative penalty.
- 20.15.2 The Screening Officer or Hearing Officer may extend the time for payment of an administrative penalty taking into consideration such factors as:
- (a) the amount of the administrative penalty and any administrative fees; and
 - (b) whether the person is employed, a student, retired or other circumstances that would render the payment an undue financial hardship; as outlined in section 20.16 of this By-law.
- 20.15.3 The extension of time should not exceed 60 days from the date of the Screening or Hearing Officer's review, as the case may be.
- 20.15.4 If a person is granted an extension of time to pay, the Screening or Hearing Officer shall record the extension so that the Town's records can be updated accordingly.

20.16 UNDUE FINANCIAL HARDSHIP

- 20.16.1 The Screening Officer or Hearing Officer may excuse a person from paying all or part of the administrative penalty, including any administrative fees, if requiring the person to do so would cause undue financial hardship.
- 20.16.2 Any person claiming undue financial hardship must provide documented proof substantiating financial hardship, for example: Old Age Security, Canada Pension, Guaranteed Income Supplement, Disability Pension, student loans, Ontario Works, etc. All information and documentation shall be treated in a confidential manner.

20.17 JURISDICTION OF SCREENING AND HEARING OFFICER

- 20.17.1 The Screening Officer or Hearing Officer has no jurisdiction to consider questions relating to the validity of a statute, regulation or by-law or the constitutional applicability or operability of any statute, regulation or by-law.

20.18 ADMINISTRATION – ADMINISTRATIVE PENALTY

- 20.18.1 An administrative penalty that is deemed to be affirmed is due and payable and constitutes a debt to the Town.
- 20.18.2 The Town may recover the amount of unpaid administrative penalties, including administration fees, plus any applicable interest, from the person by invoicing the person for the amount of unpaid administrative penalties or costs, by action, by collection or by adding the amount to the tax roll.
- 20.18.3 If an extension of time to request a review of the Screening Decision is granted by the Hearing Officer, the collection process available to the Town in relation to the administrative penalty shall be suspended until the extension of time has expired.
- 20.18.4 Where an administrative penalty is cancelled by a Screening Officer or Hearing Officer, any administrative fees are also cancelled.

20.19 SERVICE OF PENALTY NOTICES AND OTHER NOTICES

- 20.19.1 Any penalty notice or any other notice may be given in writing in any of the following ways and is effective and considered to be served:
- (a) on the date on which a copy is delivered to the person to whom it is addressed;
 - (b) on the seventh calendar day after a copy is sent by mail to the person's last known address or usual place of residence or abode;
 - (c) upon the posting of a copy in a conspicuous place at the person's last known address;
 - (d) upon the conclusion of the transmission of a copy by facsimile transmission to the person's last known facsimile transmission number;

- (e) on the seventh calendar day after a copy is picked-up by a courier for delivery to the person's last known address or usual place of residence; or
- (f) subject to subsection 20.19.3 of this By-law, upon the sending of a copy by email transmission to the person's last known email address, unless the document was sent after 5 p.m., in which case service shall be deemed to have been made by 9:00 am on the following business day.

20.19.2 For the purpose of subsection 20.19.1 of this By-law, the person's last known address, last known facsimile transmission number and last known email address shall be deemed to include those provided by the person.

20.19.3 Promptly after the sending of a copy a penalty notice or other notice by email transmission in accordance with subsection 20.19.1(f) of this By-law, the penalty notice or other notice shall be sent by mail to the person's last known address or usual place of residence or abode.

9. Subsection 21.1.1 of By-law 2017-007 be deleted and the following substituted therefor and new subsection 21.1.1(i) be added as follows:

21.1.1 Every person who contravenes any provisions of this By-law is guilty of an offence under subsection 36(1) of the Building Code Act.

21.1.1(i) Every person who fails to comply with an order made under this By-law is guilty of an offence, and on conviction, in addition to the penalties set out in subsections 21.1.2 and 21.1.3, is liable to a fine of not more than \$10,000 per day for every day the offence continues after the time given for complying with the order has expired.

10. All other provisions of By-law 2017-007 remain in force and effect.

PASSED this 28th day of March, 2022

MAYOR

CLERK