

**TOWN OF INUVIK
BY-LAW #2656/H&S/20**

A BY-LAW OF THE MUNICIPAL CORPORATION OF THE TOWN OF INUVIK IN THE NORTHWEST TERRITORIES TO CONTROL AND PREVENT THE UNSIGHTLY APPEARANCE OF LAND AND PREMISES AND TO MINIMIZE THE EFFECTS OF UNSIGHTLY LAND AND PREMISES ON ADJOINING PROPERTIES

PURSUANT TO the *Cities, Towns and Villages Act* of the Northwest Territories, S.N.W.T. 2003, c. 22 as amended, and the *Environmental Protection Act*, R.S.N.W.T. 1988, c. E-7 as amended;

WHEREAS unsightly land/premises are detrimental to surrounding properties and the immediate neighbourhood generally;

AND WHEREAS Council deems it advisable to pass a by-law to regulate unsightly land/premises;

AND WHEREAS the purpose of this by-law is to prevent the existence and proliferation of unsightly land/premises and to provide a mechanism to remedy property which has become unsightly;

NOW THEREFORE BE IT RESOLVED that the Council of the Municipal Corporation of the Town of Inuvik, in Council duly assembled, enacts as follows:

1.0 SHORT TITLE

1. This by-law may be cited as the “**Unsightly Land/Premises By-law**”.

2.0 INTERPRETATION

2.1 In this by-law:

- 1) “**All-Terrain Vehicle**” means a motorized vehicle that runs on wheels, tracks, skis, air cushions or any combination thereof and of a kind predominantly used in the Northwest Territories for cross-country travel on land, water, snow, ice, marsh or swamp land or on any other natural terrain, and without limiting the generality of the foregoing, includes:
 - (a) an amphibious vehicle;
 - (b) a snow vehicle;
 - (c) a motorcycle with a motor that has a piston displacement of seventy-five (75) cubic centimetres or less;
 - (d) a pedal bicycle with motor attachment; and
 - (e) any other vehicle prescribed to be included but does not include any vehicle that weighs more than nine hundred (900) kilograms, or any other vehicle prescribed as an exception hereto.

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- 2) **“Animal Material”** means any animal excrement and includes all material accumulated on property from pets, pet pens, yards, stables, veterinary clinics, hospitals or kennels.
- 3) **“Ashes”** means the powdery residue accumulated on property left after the combustion of any substance and includes any partially burnt wood, charcoal, coal or other material;
- 4) **“Bicycle”** means a cycle having any number of wheels that is propelled by human power and on which a person may ride.
- 5) **“Building Material”** means all construction and demolition material accumulated on property while constructing, altering, repairing or demolishing any structure and includes, but is not limited to, earth, vegetation or rock displaced during such construction, alteration or repair.
- 6) **“Bulky Waste”** means large items of refuse that are not garbage and includes appliances, furniture, mattresses, automobiles and automobile parts, concrete, tires, grease, oil, night soil, scrap metal, derelict machinery, car and truck bodies, derelict boats, derelict motor toboggans, non-working or scrap machinery, large containers, tree cuttings exceeding 1m in length or 5 cm in diameter, tree stumps, roots, turf, earth, rocks, iron, any other bulky material in excess of 1.2 metres in length or 23 kilograms in weight, other such waste matter as may accumulate as a result of demolition or construction operations, and any other material designated by the Director of Public Services to be uncollectable.
- 7) **“Bus”** means a motor vehicle with a maximum seating capacity set by the manufacturer of more than ten (10) persons, including the driver’s seat.
- 8) **“Clean-up Order”** means an Order issued under this by-law by a Peace Officer, with respect to unsightly land/premises within the Town.
- 9) **“Commercial Vehicle”** means a motor vehicle used for business purposes
- 10) **“Construction Vehicle”** means a grader, loader, shovel, tractor, mobile crane, backhoe, forklift, and other similar equipment not normally used for travel on a highway.
- 11) **“Construction and Demolition Waste”** means waste building materials and rubble resulting from construction, repair, remodeling or demolition activities and shall include tree stumps, earth, sand and stone.
- 12) **“Council”** means the Council of the Municipal Corporation of the Town of Inuvik.
- 13) **“Director of Finance”** means the person appointed by the Council of the Town of Inuvik as the Director of Finance, and includes any person designated by them to act on their behalf.
- 14) **“Director of Public Services”** means the person appointed by the Council of the Town of Inuvik as the Director of Public Services, and includes any person designated by them to act on their behalf.

- 15) **“Garbage”** means waste or debris from domestic, commercial or industrial activities including broken household dishes and utensils, condemned meats, fish, fruits and vegetables resulting from the handling, preparation, cooking and consumption of food, empty or partly empty tins, boxes, cartons, bottles and containers, discarded paper and fabric, solid waste, liquid waste, rubbish, and yard rubbish.
- 16) **“Hazardous Waste”** consisting of any waste that may present a hazard to persons, flora, fauna or public lands, including wastes of a pathological, an explosive, a highly flammable, a radioactive or a toxic nature.
- 17) **“Motorcycle”** means a motor vehicle that:
 - (a) has two or three wheels;
 - (b) is designed for use on a highway; and
 - (c) does not have a cab for the driver.
- 18) **“Motor Vehicle”** means a vehicle propelled or driven by power other than muscular power and includes a trailer, but does not include:
 - (a) an aircraft, a marine vehicle or an all-terrain vehicle; or
 - (b) a mechanically propelled wheelchair.
- 19) **“Owner”** means the person named on a certificate of title registered with the Northwest Territories Land Titles Office or, if that person is deceased, their estate.
- 20) **“Peace Officer”** means any By-law Enforcement Officer of the Town of Inuvik, or any RCMP officer.
- 21) **“Person”** has the meaning given to it in the *Interpretation Act*.
- 22) **“Property”** means all real property including but not limited to buildings, structures and improvements on real property.
- 23) **“Refuse”** for the purposes of this by-law means human or animal excrement and includes urine, night soil, toilet tissues, blackwater, greywater and the like, but does not include garbage.
- 24) **“Right of Access”** means the right of a Peace Officer to enter property with and without consent of the property’s owner or occupier to inspect to determine whether to issue a Clean-up Order, or to allow work forces access to the property for the purposes of enforcing a Clean-up Order.
- 25) **“Senior Administrative Officer”** means the Senior Administrative Officer of the Municipal Corporation of the Town of Inuvik, or their designate.
- 26) **“Town”** means the Municipal Corporation of the Town of Inuvik.

- 27) **“Unsightly Land/Premises”** means any property or part of it which is characterized by visual evidence of a lack of general maintenance and upkeep and/or by the accumulation on the property of any of the following, but not limited to:
- (a) any animal material, ashes, building material, collectible refuse, garbage, hazardous waste, litter, refuse or waste material, household appliances and furniture;
 - (b) all-terrain vehicles, buses, commercial or construction vehicles, motorcycles, motor vehicles, trailers, vehicles, equipment, or machinery which have been rendered inoperative by reason of their disassembly, age or mechanical condition; and,
 - (c) in the case of external surfaces of buildings, unsightly land/premises means unauthorized signs, posters, billboards, graffiti, obscene or offensive symbols, words, pictures or art, and may include, but is not limited to, dilapidated paint, siding, trim, roofing material, soffits, fascia material and eave troughs.
- 28) **“Vehicle”** includes any vehicle designed to travel on land that is drawn, propelled or driven by any kind of power, including muscular power, but does not include an all-terrain vehicle or a device that is designed to run on rails.
- 29) **“Work Forces”** means Town employees or contract workers engaged by the Town for the purposes of enforcing a Clean-up Order.
- 30) **“Yard Waste”** means waste from gardening or horticultural activities and includes grass clippings or cuttings, shrubbery and hedge prunings (excluding tree branches, stumps, roots and logs), leaves and weeds but does not include peels, rinds or other organic material produced as a result of food preparation.

3.0 DUTY OF OWNER

- 3.1 Every property owner shall ensure that their property does not become unsightly as defined in this by-law.

4.0 GENERAL PROVISIONS

- 4.1 In determining whether a property is unsightly land/premises as defined in this by-law, a Peace Officer shall have regard to the use and location of the property and the provision of applicable Zoning By-laws, other by-laws, and any applicable municipal, Federal and Territorial statutes and regulations.
- 4.2 If a Peace Officer has reason to believe that any property is unsightly land/premises, they may exercise a right of access to the property with or without consent of the property's owner or occupier in order to inspect the property to determine whether it contravenes the provisions of this by-law.

- 4.3 If a Peace Officer considers any property to be unsightly land/premises, they may issue a Clean-up Order. Each Clean-Up Order shall:
- i) describe the property by name, if any, and the municipal civic address and legal description or a plan showing the location of the property;
 - ii) state that the property contravenes the provisions of this by-law;
 - iii) give reasonable particulars of the extent of the clean up, removal, clearing or other act required to be made;
 - iv) state the time within which the cleanup, removal, clearing or other action is to be completed, subject to section 4.4;
 - v) state that if the required actions are not completed within the time specified, the Town may carry out the required actions and charge the cost thereof against the person to whom the order is directed. If such person does not pay the costs, then the costs shall be charged against the property concerned as taxes due and owing in respect of that property, and recovered as such; and,
 - vi) advise of the appeal process to Council.
- 4.4 The Clean-up Order may require the person to whom it is addressed, within a period of time which shall not be more than fifteen (15) days from the date of the issuance of the Order:
- i) to remedy the condition of the property in a manner and to the extent directed in the Order;
 - ii) to remove any material causing or contributing to the unsightliness of the property;
 - iii) to place in waste receptacles any material causing or contributing to the unsightliness of the property; or,
 - iv) to do all or any of the matters specified in subsections 4.4 i) and ii).
- 4.5 A copy of the Clean-up Order shall be served upon an owner of a property and may be served on any person shown by the records of the Land Titles Office to have an interest in the property.
- If a Peace Officer has reason to believe unsightly land or premises is occupied by someone other than the property owner, the occupant of the property shall be served with a copy of the Clean-Up Order in accordance with paragraph 4.6 of this by-law.
- 4.6 An Order referred to in subsection 4.5 shall be served:
- a) by being delivered personally to the person who is intended to be served; or

- b) where personal service cannot be made because the address of the person is not known, service may be effected by publishing a summary of the contents of the notice twice in a newspaper having general circulation in the municipality or in the Northwest Territories.

5.0 NOTICE OF APPEAL AND DECISION

- 5.1 Where a Clean-up Order is issued pursuant to section 4.3, such a Clean-up Order may be appealed to Council.
- 5.2 Appellants must submit notice of their appeal in writing to the Senior Administrative Officer within fourteen (14) days of the date of the issuance of the Clean-up Order.
- 5.3 Each notice of appeal shall:
 - i) state with reasonable exactness the grounds of appeal;
 - ii) state the name, address and interest of the appellant in the property; and,
 - iii) be dated and signed by the appellant or on their behalf by their agent; if signed by an agent, it shall state the name and address of the agent.
- 5.4 Upon receiving a notice of appeal, the Senior Administrative Officer shall set a date for the appeal hearing which shall be held within twenty (20) days of the receipt of the notice of appeal.
- 5.5 Where a Clean-up Order is appealed pursuant to section 5.1, the Order is stayed pending a decision by Council on the appeal.
- 5.6 Council shall consider each appeal having regard to the circumstances and merits of the case and applicable provisions of this by-law. When hearing an appeal, Council shall:
 - i) not be bound by the technical rules of evidence; and,
 - ii) afford to every person concerned the opportunity to be heard, to submit evidence and to hear the evidence of others.
- 5.7 Council's decision shall be final. Council may:
 - i) confirm, vary or revoke the Clean-up Order or may substitute its decision in place of the Clean-up Order which was issued;
 - ii) extend the timeframe within which anything required to be done by the Clean-up Order is to be performed; or,
 - iii) direct anything to be done that a Peace Officer can direct to be done either in addition to or in substitution for the direction in the Order appealed from.

6.0 FAILURE TO COMPLY WITH CLEAN-UP ORDER

- 6.1 The person to whom an Order is directed shall comply with the directions of the Order as set out in the Order by a Peace Officer or the requirements or directions set out in any decision of Council.
- 6.2 If a person to whom an order is directed under this by-law fails to carry out the order within the time stated in such Order, in the case of an Order that is not appealed, or within the time limited by Council, in the case of an Order that is appealed, a Peace Officer may exercise a right of access to the unsightly land/premises and may, with whatever work forces as are necessary, enter the property against which the Order has been issued and carry out the Order.
- 6.3 The Town or persons appointed by it may remove any fencing or other obstructions in carrying out the Order and shall restore any fencing or other obstructions removed or damaged in the course of carrying out the Order to a condition or state of repair equivalent to that which was found.

7.0 CLEAN-UP EXPENSES

- 7.1 The expenses incurred by the Town in carrying out an Order under this section constitute a debt owing to the Town from the person to whom the Order is directed.
- 7.2 Within thirty (30) days of ascertaining the amount of the expenses incurred by the Town in carrying out the Order, the Town shall send a demand for payment of the said expenses to the person to whom the Order was directed.
- 7.3 Where the Town carries out an Order under this section, and the person to whom the Order is directed fails, within thirty (30) days after being issued a demand for payment, to pay the expenses incurred by the Town, the Director of Finance shall place the amount of the expenses incurred in carrying out the Order on the property tax roll as an additional tax against the property concerned, and that amount:
- i) forms a lien on the property in favour of the Town; and,
 - ii) shall, for all purposes, be deemed to be taxes imposed and assessed on the property and delinquent under the *Property Assessment and Taxation Act* from the date the expenses were incurred, and this Act shall apply to the enforcement, collection and recovery of the amount.

8.0 REMOVAL AND DISPOSAL OF MATERIALS FROM UNSIGHTLY LAND/PREMISES

- 8.1 Where the Town carries out an Order under this section, the work forces shall deposit any material removed from unsightly land/premises at a location designated by the Director of Public Services.

- 8.2 Notwithstanding subsection 8.1, where a Peace Officer is of the opinion that material removed under subsection 8.1 has no value, they may direct that the material be disposed of.
- 8.3 When material removed from unsightly land/premises under subsection 8.1 is removed to a location specified by the Director of Public Services, the Director of Public Services may direct that the material be disposed of if the person to whom the Order has been issued does not remove the material within fourteen (14) days of being requested in writing to do so.
- 8.4 In addition to any fine levied, any responsible person as defined herein will be required to remove any scrap metal, car bodies, derelict machinery, truck bodies, derelict boats, derelict motor toboggans, and any other non-working or scrap machinery from the premises within thirty (30) days from payment of voluntary fine/conviction. Failure to do so will result in the Town removing said derelict scrap metal or machinery at the expense of the responsible person in charge of the premises.
- 8.5 In addition to any fine levied, any responsible person as defined herein will be required to remove the garbage, collectible refuse, and ashes from the premises within fourteen (14) days from voluntary payment of fine or conviction, and failure to do so will result in the Town removing such garbage, refuse or ashes at the expense of the responsible person in charge of the premises.

9.0 OBSTRUCTION

- 9.1 No Person shall obstruct, hinder, or impede a Peace Officer in the exercise of any of their powers or duties under this by-law.

10.0 OFFENCES

- 10.1 Every person who contravenes any provision of this by-law is guilty of an offence and is liable upon Summary Conviction (if a fine is not otherwise specified in Schedule A attached to and forming part of this by-law) to:
- (a) for the first and each subsequent offence:
- i) for a person, to a fine not exceeding two thousand dollars (\$2,000.00), or to imprisonment for a term not exceeding six (6) months, or to both;
 - ii) for a corporation, to a fine not exceeding ten thousand dollars (\$10,000.00), or to imprisonment for a term not exceeding six (6) months, or to both.
- 10.2 In addition to any fine that may be levied, the court, subject to its jurisdiction, may order a person convicted of an offence under this by-law:

- i) to pay any fee or charge that may otherwise be payable by the person to the Town in respect of any licence or permit that should have been obtained by the person; and,
- ii) to do or refrain from doing any activity that the court may specify.

10.3 If any responsible person as defined herein is liable for payment to the Town for the collection, removal or disposal of any garbage, collectible refuse, ashes or other waste material and shall default in such payment, the amount in arrears and costs shall become a charge against the property in respect of which the service was performed, whether or not the responsible person is the owner of the premises, collectible against the owner thereof in the same manner as taxes levied by the Town.

10.4 A Peace Officer may issue a Summary Offence Ticket in the form prescribed by the *Summary Convictions Procedures Act* to any person who contravenes any provision of this by-law, and such person may, in lieu of prosecution, pay the Town of Inuvik the specified penalty for the offence as listed in Schedule A attached to and forming part of this by-law, prior to the court date specified on the ticket.

11.0 SEVERABILITY

11.1 If any provision or part of a provision of this by-law is declared by a court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the by-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

12.0 REPEALS

12.1 By-law 1804/H&S/00 as amended and any previous unsightly land/premises by-laws previously in effect are hereby repealed.

13.0 EFFECT

13.1 This by-law shall come into effect upon the day of its final passage.

READ A FIRST TIME THIS 30TH DAY OF SEPTEMBER, 2020 A.D.

READ A SECOND TIME THIS 27TH DAY OF JANUARY, 2021 A.D.

READ A THIRD TIME AND FINALLY PASSED THIS _____ DAY OF _____, 2021
A.D.

MAYOR

SENIOR ADMINISTRATIVE OFFICER

I hereby certify that this by-law has been made in accordance with the requirements of the *Cities, Towns and Villages Act* and the by-laws of the Town of Inuvik.

SENIOR ADMINISTRATIVE OFFICER

SCHEDULE A

SPECIFIED PENALTIES

SECTION	OFFENCE	PENALTY		
		1 st Offence	2 nd Offence	3 rd Offence
3.1	Permitting an unsightly condition	\$250.00	\$500.00	\$1,000.00
5.1	Failure to comply with a Clean-up Order	\$500.00	\$1,000.00	\$2,000.00
9.1	Obstructing a Peace Officer	\$250.00	\$500.00	\$1,000.00