



TOWN OF SHELburne

DANGEROUS OR UNSIGHTLY PREMISES POLICY

PURPOSE

The purpose of the **Enforcement – Dangerous or Unsightly Premises Policy** is to outline what is required to initiate an investigation of a property and the steps that will be followed through an investigation, order, clean-up and/or demolition of a property.

Dangerous or unsightly premises and/or properties subject to this policy will be as defined in Section 3(r) of the *Municipal Government Act* of Nova Scotia.

(r) “dangerous or unsightly” means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing:

- i. Ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item or equipment or machinery, or bodies of these or parts thereof,
- ii. An accumulation of wood shavings, paper, sawdust, dry and inflammable grass or weeds or other combustible material, or,
- iii. Any other thing that is dangerous, unsightly, unhealthy or offensive to a person, and includes property, a building or structure,
- iv. That is in a ruinous or dilapidated condition,
- v. The condition of which seriously depreciates the value of land or buildings in the vicinity,
- vi. That is in such a state of non-repair as to be no longer suitable for human habitation or business purposes,
- vii. That is an allurements to children who may play there to their danger,
- viii. Constituting a hazard to the health or safety of the public,
- ix. That is unsightly in relation to neighbouring properties because of exterior finish of the building or structure or the landscaping is not maintained,
- x. That is a fire hazard to itself or to surrounding lands or buildings, or
- xi. That has been excavated or had fill placed on it in a manner that results in a hazard.

POLICY

It is the policy of the Town of Shelburne to ensure a consistent method of investigation of dangerous or unsightly properties and steps that will be followed through an investigation, order, appeal, clean-up and the process for demolition of a property.

DEFINITIONS

Administrator – Staff assigned to carry out duties under Dangerous and Unsightly Policy, CAO or By-Law Enforcement Officer.

MGA – *Municipal Government Act* SNS 1998, c. 18, part XV

DELEGATION

The Council delegates the authority to act where property is dangerous or unsightly to the Administrator, except the authority to order demolition.

REPORT OF DANGEROUS OF UNSIGHTLY PROPERTY

The Town of Shelburne shall only conduct an investigation of a dangerous property once a complaint has been received. A complaint of a dangerous or unsightly property can be made by a resident or ratepayer of the Town of Shelburne (the “complainant”). The complaint shall be made in writing using the Dangerous or Unsightly Premises Complaint Form (Appendix A) and submitted to the Town of Shelburne either in person at the Town Office or via email. Each complaint will be recorded on a form for this purpose and, within fourteen (14) days, will be followed by a site inspection and an initial site inspection report, conducted and prepared by the Administrator. Complaints shall be considered confidential but are subject to Part XX of the MGA & *Freedom of Information and Protection of Privacy Act*.

Notwithstanding the above, the Administrator may act in the absence of a complaint or where it is deemed a property poses an immediate safety concern subject to the MGA, Part XV, section 350.

INVESTIGATION

Once an initial site inspection is conducted, the Administrator will determine whether the property is dangerous or unsightly. The Administrator may take photographs and video recordings of the property as necessary to document its condition.

If the Administrator determines that the property is not dangerous or unsightly, no action will be taken and the complainant shall be advised accordingly.

If the Administrator determines that the property is unsafe, the Administrator may make an order to vacate the premises.

If the Administrator determines that a dangerous or unsightly condition requires immediate action in order to protect public safety, the Administrator may immediately take action to prevent damage or remove the dangerous structure or condition.

If the Administrator determines that the property is dangerous or unsightly, and where immediate action is deemed unnecessary, the Administrator shall so advise the property owner by regular mail, posting in a conspicuous place on the property or personal service, of what is required to remedy the unsightly or dangerous condition within thirty (30) days, or other reasonable time frame dependent on the extent of work to be done, inclement weather or other restrictions (Appendix B).

CLEAN-UP ORDER

In the event that the dangerous or unsightly condition has not been remedied in accordance with a notice given, the Administrator may order an owner to remedy the condition. The Order shall be posted on the property in a conspicuous place and a copy shall be sent to the owner by regular mail or personal

service. The Order shall give the owner thirty (30) days to remedy the condition, or other reasonable time frame dependent on the extent of the work to be done, inclement weather or other restrictions (Appendix C). An Order made by the Administrator may be appealed to the Council within seven (7) days after the Order is made.

APPEAL PROCESS

Appeals can be made at any time up to seven (7) days after receiving or having an Order posted to a property. Consideration may be given to property owners who ask for extensions to remedy orders based on special circumstances. Appeals can be submitted in writing to Town Council for consideration or the property owner may appear at an appeal hearing prior to a Town Council meeting to discuss the Order with Town Council in person. In order to appeal an order, the property owner must complete the proper form and submit it to the Town Clerk. (Appendix D)

DEMOLITION

In the event that the Administrator determines that the property is dangerous or unsightly and is of the opinion that to remedy the condition demolition is necessary, a recommendation will be sent to Town Council for consideration. The owner shall be given notice of the Council session where the matter is to be discussed in accordance with the MGA. The owner may write to Town Council or appear as a delegation at the meeting by contacting the Town Clerk.

If Council considers demolition necessary to remedy the property, an Order will be issued to the owner of the property with directions to demolish. The Order shall be posted in a conspicuous place on the property and a copy shall be sent to the owner by regular mail or personal service. The Order shall give the owner thirty (30) days to remedy the condition, or other reasonable time frame dependent on the extent of the work to be done, inclement weather or other restrictions.

COURT ORDER

Notwithstanding the above, the Town of Shelburne may also apply to a court of competent jurisdiction for a declaration that a property is dangerous or unsightly and for an order specifying the work required to be done to remedy the condition.

ENFORCEMENT

Where an owner fails to comply with an Order made pursuant to the Policy herein within the time specified, the Administrator may enter upon the property without warrant or other legal process in order to carry out the work specified in the Order without further notice to the owner. Where the Administrator intends to carry out the work specified in an Order, the Administrator shall obtain an estimate of cost involved and obtain approval of the CAO before carrying out the work.

CHARGES

Where the owner fails to comply with an Order made herein within the specified time, the owner may be charged pursuant to the powers granted under Part XV and Section 507 of the MGA. The MGA provides for the recovery of any money expended by the municipality under a dangerous or unsightly premises order. Where a municipality lawfully causes work to be done under the MGA, the cost of the

POLICY

work, along with interest owing, is considered the first lien on the property. Under the MGA, section 507; 133.3 (bz), a lien is defined as a tax and therefore is recoverable by the municipality as taxes.

The municipality may prosecute for failure to obey the order by issuing a summary offence ticket. Each day during which the condition is not remedied is a separate offense of not less than one hundred (\$100) dollars and not more than (\$5,000) under the MGA, section. 348.

Approved by Council: March 5th, 2019



Dangerous & Unsightly POLICY

Appendix A Complaint Form

Name: _____

Address: _____

Address of Dangerous and Unsightly Property: _____

Email Address: _____

Phone Number: _____

* Complaints shall be considered confidential but are subject to Part XX of the *Municipal Government Act & Freedom of Information and Protection of Privacy Act*.

Check any that apply:

☐

Ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item or equipment or machinery, or bodies of these or parts thereof,

☐

An accumulation of wood shavings, paper, sawdust, dry and inflammable grass or weeds or other combustible material, or,

☐

Any other thing that is dangerous, unsightly, unhealthy or offensive to a person, and includes property, a building or structure,

☐

That is in a ruinous or dilapidated condition,

☐

The condition of which seriously depreciates the value of land or buildings in the vicinity,

☐

That is in such a state of non-repair as to be no longer suitable for human habitation or business purposes,

☐

That is an allurements to children who may play there to their danger,

☐

Constituting a hazard to the health or safety of the public,

☐

That is unsightly in relation to neighbouring properties because of exterior finish of the building or structure or the landscaping is not maintained,

☐

That is a fire hazard to itself or to surrounding lands or buildings, or

☐

That has been excavated or had fill placed on it in a manner that results in a hazard.

Dangerous & Unsightly POLICY

Please provide specific details of the infraction:

FOR OFFICE USE ONLY

Date of Property Inspection:

Order to Remedy Necessary: _____ yes _____ no

Date Complainant Notified of Action: _____

Case # _____

Case Administrator: _____

RETAIN THIS FORM IN CASE FILE



Dangerous & Unsightly POLICY

Appendix B Investigation and Case Form

Administrator: _____

Case #: _____

Property Address & PID: _____

Date of Complaint: _____

Reason for Complaint:

Property Background:

(previous orders against property / other complaints against property)

Chronology of Case Activities

Date	Action	Notes
	Initial Complaint Filed	
	Property Inspection	
	Order to Remedy	
	Conversations with Owner	
	Appeal	
	Inspections	
	Closing of Case	

Dangerous & Unsightly POLICY

Financial Implications:

(Expenses incurred by the Town, Liens, Summary Offense Tickets)

Risk Considerations / Environmental Implications:

Files Attached:

Appendix A – Complaint Form

Appendix C – Order

Appendix D – Appeal

Photographs etc.



Dangerous & Unsightly POLICY

Appendix C Order to Remedy

Date: _____

Order Served Upon: _____

Address / PID: _____

This is to advise you that you are in violation of the Municipal Government Act Part XV, Dangerous and Unsightly Premises. A copy of the Dangerous and Unsightly Premises Policy for the Town of Shelburne is attached to this notice.

Details of Violation:

Violation to be remedied as per the following:

You will have 30 days in which to rectify the violation. If you wish to appeal this order, you may do so by contacting the Town Clerk within seven (7) days of the date of this notice. Your appeal will be brought to Town Council in writing and/or in-person as a delegation for consideration. (See Form - Schedule D)

Notice of Re-inspection:

A re-inspection will be performed after _____ to confirm the above noted violation(s) has been rectified. If you have any questions regarding this matter, please contact the issuing officer prior to the re-inspection date.

Enforcement Officer Peggy Ruiz
pruiz@town.shelburne.ns.ca
902-874-0544

Dangerous & Unsightly POLICY

Failure to obey this order may result in Summary of Offense tickets, where each day during which the condition is not remedied is a separate offence, to a penalty of not less than one hundred (\$100) dollars and not more than five thousand (\$5,000) dollars per day. MGA Part XV, s.348 (4)

Failure to obey this order allows the administrator to enter upon the property without warrant or other legal process and carry out the work specified in the order. Where a municipality lawfully causes work to be done under the MGA, the cost of the work, along with interest owing, is considered a first lien on the property. MGA Part XV, s.348 (3)



Dangerous & Unsightly POLICY

Appendix D Notice of Appeal

Name:

Property Address:

Mailing Address:

Email Address / Phone Number:

Date of Order:

Appeals can be made at any time up to seven (7) days after receiving or having an Order posted to a property. Consideration may be given to property owners who ask for extensions to remedy orders based on special circumstances. Please select one of the following reasons for your appeal:

☐ Weather conditions

☐ Monetary

☐ Illness

☐ Other

☐ Estate

☐ Do not agree with the complaint against the property

Please explain the reason for appeal:

☐ I wish to attend the Appeal Hearing as a delegation

If you choose to attend as a delegation, the Town Clerk will inform you of the next available Town Council Meeting. Appeals are held prior to the Regular Town Council meeting. Your appeal will be reviewed and you will be contacted by either the Town Clerk or the Administrator in regards to your request.

Town Clerk

clerk@town.shelburne.ns.ca

168 Water Street, PO Box 670, Shelburne, NS, B0T 1W0

Received by the Town Clerk:

Dangerous & Unsightly POLICY



Order of Proceedings for Appeals to Town Council

The Chair will open each of the hearings and address the following:

- The Chair will ask the Appellant to identify themselves or the representative will identify themselves and provide a signed letter from the Appellant
- The Chair will briefly explain how the hearing will proceed
- The Town of Shelburne Administrator will explain the basis for the order under review and provide documentation of the case
- Town Council may ask questions to the Administrator for clarification
- The Appellant may ask questions to the Administrator for clarification
- Witnesses may be permitted to provide factual evidence relevant to the appeal
- Appellant's Presentation – The Appellant is given up to ten (10) minutes to support the appeal
- Town Council may ask questions to the Appellant or witnesses
- Town Council may ask questions to the Administrator
- The Administrator may ask questions to the Appellant
- Town Council then debates their decision and renders a decision with the Appellant (or their representative) present
- Upon motion, Town Council may move In-Camera (In Private) to obtain confidential legal advice at any time during the process
- Town Council has four (4) alternatives:
 - Cancel the Order (allow the appeal)
 - Amend the Order (change the conditions)
 - Keep the Order as is (appeal dismissed)
 - Continue the hearing at a later date (defer)

If the Appellant is not present, the Town Clerk will notify them of Town Council's decision.

All decisions made during an Appeals Hearing will be documented in the case files by the Administrator and a copy will be sent to the Appellant.

Hearings to Town Council are open to the public and any information, including personal information, which is provided or obtained in relation to your appeal, will be matter of public record.