

HAMLET OF FORT MCPHERSON
BY-LAW # 147/00

BEING A BY-LAW OF THE HAMLET OF FORT MCPHERSON IN THE NORTHWEST
TERRITORIES, TO CONTROL AND PREVENT THE UNSIGHTLY APPEARANCE OF LAND AND
TO MINIMIZE THE EFFECTS OF UNSIGHTLY LAND ADJOINING PROPERTY AND THE
COMMUNITY IN GENERAL:

PURSUANT TO the
Hamlets Act, R.S.N.W.T., 1988, c-H1, Sections 173, 174, 176, 177, 182, 183, and 187; AND
Environmental Protection Act, R.S.N.W.T., 1988, c.E-7, Sections 9 and 10; AND
Summary Convictions Procedures Act, R.S.N.W.T., 1988, c.S-15;

WHEREAS unsightly land is detriment to surrounding properties, the immediate neighborhood and the
community in general;

AND Council deems it desirable to pass a by-law to regulate unsightly land;

AND the purpose of the by-law is to prevent the existence and proliferation of unsightly land and to
provide a mechanism for the restoration of property, which has become unsightly;

NOW THEREFORE, the Council of the Hamlet of Fort McPherson at a duly assembled meeting enacts as
follows;

SHORT TITLE

1. This By-law may be cited as the “Unsightly Land By-law”.

DEFINITIONS/INTERPRETATION

2. in this By-law, unless the context otherwise requires;
 - a. “Animal Material” means any animal excrement and includes all materials accumulated on property from pet pens, dog team areas, yards, stables, veterinary clinics or hospitals or kennels;
 - b. **“Appeals Committee” means any three or more members of Council either appointed or voluntary sits on the Board;**
 - c. “Ashes” means the powdery residue accumulated on property left after the combustion of any substance and includes any partially burnt wood, charcoal, coal and any other combustible material;
 - d. “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;
 - e. “Council” means the Council of the Hamlet;
 - f. “Councilor” means a member of the Council, but not the Mayor or Deputy Mayor;
 - g. “Clean Up Order” means an Order issued under this By-law by an Enforcement Officer with respect to unsightly land within the Hamlet;
 - h. “Deputy Mayor” means the Deputy Mayor of the Hamlet of Fort McPherson;
 - i. “Enforcement Officer” means a By-law Officer or Development Officer as appointed by the Hamlet of Fort McPherson;
 - j. “Garbage” means material composed of organic waste that is or may become decomposed, including the by-products from the preparation, consumption and storage of food;
 - k. “Hamlet” means the Incorporated Hamlet of Fort McPherson or the area contained within the Municipal boundaries as the context requires;
 - l. “Mayor” means the Mayor of the Hamlet of Fort McPherson;

- m. "Owner" means:
 - 1. a person who is registered under the Land Titles Act as owner of the property;
 - 2. the person who is recorded as the owner of the property on the assessment roll of the Government of the Northwest Territories;
 - 3. **a person who has purchased or otherwise acquired any interest in the property, whether he/she has purchased or otherwise acquired any interest in the property directly from the owner or from another purchaser, and has not become the registered owner thereof;**
 - 4. a person holding himself/herself out as having the powers and authority of ownership or who for the time being exercises the powers and authority of ownership;
 - 5. a person controlling the property under construction; and
 - 6. A person, who is the occupant of the property under a lease, licenses or permits.
- n. "Property" means any land, building or property, whether real or personal, within the Municipal boundaries of the Hamlet of Fort McPherson;
- o. "Right of Access" means the right of an Enforcement Officer to enter property 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;
- p. "SAO" means the Senior Administrative Officer of the Hamlet of Fort McPherson and includes any person designated by him/her to act on his/her behalf;
- q. "Schedule" means a Schedule attached to and forming part of this By-law;
- r. "Unsightly Land" 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;
 - 1. any rubbish, refuse, garbage, papers, packages, containers, bottles, cans, manure, human excrement or sewage or the whole or part of an animal carcass, dirt, soil, gravel, rocks, sod, petroleum products, hazardous materials, disassembled equipment or machinery, broken household dishes and utensils, boxes, cartons, fabrics, household appliances and furniture;
 - 2. vehicles, equipment or machinery which has been rendered inoperative by reason of its disassembly, age or mechanical condition;
 - 3. animal material, yard material, ashes, building material and garbage as defined in this By-law;
 - 4. all forms of waste, refuse, litter as defined under **By-law #/ the Garbage Collection By-law** as amended from time to time; and
 - 5. in case of external surfaces of buildings, unsightly land means unauthorized signs, posters, billboards, graffiti, obscene symbols, words, pictures or art; and may include, but not limited to dilapidated paint, siding, trim, roofing material, soffits, fascia material and eaves troughs;
- s. "Work Forces" means Hamlet employees or contract workers engaged by the Hamlet for the purposes of enforcing a Clean Up Order;
- t. "Yard Material" means any material, organic or not, and includes, but is not limited to earth, rocks, felled trees, which is formed as a result of yard maintenance.

APPLICATION

- 3. No owner of property shall allow his or her property to become unsightly land as defined in this By-law.
- 4. In determining whether a property is unsightly as defined in this By-law, an Enforcement 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 statutes and regulations of Canada and the Northwest Territories.
- 5. If an Enforcement Officer has reason to believe that any property is unsightly land he/she may exercise the right of access to the property in order to inspect the property to determine whether the property contravenes the provisions of this By-law.
- 6. If an Enforcement Officer considers any property to be unsightly land, the Enforcement Officer may issue a Clean Up order, Schedule "B" attached to and forming part of this By-law, and each order shall;

- a. describe the property by name, **street address**, legal description or a map showing the location of the property;
- b. state that the property contravenes the provisions of this By-law;
- c. give reasonable particulars of the extent of the clean up, removal, clearing or other action required to be made;
- d. state the time within which the clean up, clearing, removal or other action that is to be completed, subject to Section 8;
- e. state that if the required actions are not done within the time specified, the Hamlet may carry out the action required and charge the cost thereof against the person to whom the order is directed;
- f. State that an appeal lies from the issuance of this Order to **Appeals Committee**, if an appeal is lodged in writing with the SAO within fourteen (14) days of the date of issuance of the Order.

7.1. a copy of the Clean Up Order shall be served upon an owner of the property and to any person shown to have an interest in the property;

- 7.2. an order referred to in subsection 7.1 may be served by the following:
 - a. by being delivered personally to the person who is intended to be served;
 - b. by mailing the Order to the person to be served by **Regular Mail** to the last known post office address of the person to be served, and service shall be deemed to be effected at the time the copy is delivered by an Official of the Post Office to the person to be served;
 - c. where the property is not occupied, by mailing the notice by **Registered Mail** to the mailing address noted on the Hamlet's records, and service shall be deemed to be effected at the time the copy is delivered by an Official of the Post Office to the person to be served; or
 - d. As directed by the Court.
- 7.3. If, in the opinion of the Enforcement officer, service under subsection 7.2 cannot reasonably be effected, the Enforcement Officer may post the Clean Up Order, or copy of the Order in a conspicuous place on the property to which the Order relates or on the private dwelling place of the person who is intended to be served, and such Order is deemed to be served upon the expiry of three (3) days after such Clean up Order is posted.

8. the Clean Up Order may require the person to whom it is addressed, within a period of time which shall not be more than thirty (30) days from the date of the issuance of the Order, but not less than fourteen (14) days;
 - a. to remedy the condition of the property in a manner and to the extent directed in the Order;
 - b. to remove any material causing or contributing to the unsightliness of the property;
 - c. to place in waste receptacles, any material causing or contributing to the unsightliness of the property;
 - d. To do all or any of the matter specified in subsection 8.a, 8.b. and 8.c;

9. The Enforcement Officer may extend the time for compliance, up to a period of fourteen (14) days.

- 10.1. Where a Clean Up Order is issued pursuant to Section 6., such Clean up Order may be Appealed within fourteen (14) days, to the **Appeals Committee**.
- 10.2. Where a Clean Up Order is appealed pursuant to subsection 10.1, the Order is stayed, pending a decision by the **Appeals Committee** on the appeal.
- 10.3. A decision by the **Appeals Committee** is final.
- 11.1. The **Appeals Committee** may confirm vary or revoke the Clean Up Order or may substitute its decision in place of the Clean Up Order, which was issued.
- 11.2. The **Appeals Committee** may extend the time, within which anything required is to be done, by the Clean Up Order is to be performed.
- 11.3. The **Appeals Committee** may direct anything to be done that an Enforcement Officer can direct to be done, either in addition to or in substitution for the direction in the Order appealed from.
- 12.1. Appellants must submit notice of their appeal in writing to the SAO within fourteen (14) days of the date of the issuance of the Clean Up Order.

- 12.2. Each notice of appeal shall;
 - a. state with reasonable exactness, the grounds of the appeal;
 - b. state the name, address and interest of the appellant in the property; and
 - c. Be dated and signed by the appellant, or on his/her behalf by their agent and, if signed by the agent, shall state the name and address of he agent.
13. The SAO shall, upon receipt of the Notice of Appeal, set a date for the hearing of the appeal, which shall be held within thirty (30) days of the receipt by the SAO of the Notice of Appeal.
14. The **Appeals Committee** shall consider each appeal, having regard to the circumstances and merits of the case and applicable provisions of this By-law.
15. When hearing an appeal, the **Appeals Committee** shall;
 - a. not be bound by the technical rules of evidence; and
 - b. Afford every person concerned the opportunity to be heard, to submit evidence and to hear the evidence of others.
16. The person to whom an Order is directed shall comply with the directions of the Order as set out in the Order of the Enforcement Officer or the requirements or direction set out in any decision of the Appeals Committee.
- 17.1. If a person to whom an Order is directed, under this By-law, fails to carry out the Order within the time frame stated in such Order, in the case of an Order that is not appealed, or within the time frame limited by the Council, in the case of an Order which is not appealed, an Enforcement Officer may exercise a right of access to the unsightly land, and may, with whatever work forces as are necessary, enter the property against which the Order has been issued and carry out the Order.
- 17.2. The Hamlet or persons appointed by it may remove any fencing or other obstruction in the course of carrying out the Order and shall restore the any fencing or other obstructions removed or damaged in the course of carrying out the Order, to a condition and state of repair equivalent to that in which it was found.
- 17.3. The expenses incurred by the Hamlet in carrying out an Order under this Section constitute a debt owing to the Hamlet from the person(s) to whom the Order is directed.
- 17.4. Within thirty (30) days of ascertaining the amount of the expenses incurred by the Hamlet in carrying out the Order, the SAO shall send a demand for payment of these expenses, to the person(s) to whom the Order was directed.
- 17.5. Where the Hamlet carries out an Order under this Section and the person(s) to whom the Order is directed, fails within thirty (30) days after demand for payment, to pay the expenses incurred by the Hamlet, the outstanding debt will be dealt with as Council deems appropriate, including possible referral to a collection agency or other legal action.
- 17.6. Where the Hamlet carries out an Order under this Section, the work forces shall deposit any material removed from the unsightly land at a location designated by the SAO
- 17.7. Notwithstanding subsection 17.6, **where any two of the following Enforcement Officer, Foreman or SAO** is of the opinion that the material removed under subsection 17.6 is of no value he/she may direct that the material be disposed of.
- 17.8. When the material removed from the unsightly land under subsection 17.6, is removed to a location specified by the SAO, he/she may direct that the material be disposed of, if the person(s) to whom the Order is issued does not remove the material within fourteen (14) days from being requested in writing to do so.
- 18.1 any person or corporation who violates any provision of this By-law is guilty of an offence and is liable on summary conviction to:
 - a. a fine not exceeding one thousand (\$1,000.00) dollars for an individual and ten thousand (\$10,000.00) dollars for a corporation or business;
 - b. any other Order; and
 - c. Any other Order that may be imposed by the Court as outlined in Section 183 of the Hamlets Act.

- 18.2 No person found guilty of an offence pursuant to this By-law shall be liable to imprisonment.
19. A Enforcement Officer may issue a Summary Offence Ticket Information in the form prescribed by the Summary Convictions Procedures Act and Regulation, to any person(s) who violates any provisions of this By-law and such person(s) may, in lieu of prosecution, pay the Hamlet the voluntary payment 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.
20. Any violation of this By-law is a continuing offence and separate offence for each day the offence continues, and the penalties provided for in this By-law shall apply for each day the offence continues.
21. This By-law shall come into effect after receiving third reading and otherwise meeting the requirements of Section 57 of the Hamlets Act.

REPEAL

22. By-law #53 is hereby repealed.

Read a first time this 29th day of February, 2000

Will R. Koe
Mayor

J. Vukobratovic
Senior Administrative Officer

Read a second time this 29th day of February, 2000 .

Will R. Koe
Mayor

J. Vukobratovic
Senior Administrative Officer

Read a third time and finally passed this 28th day of March, 2000.

Will R. Koe
Mayor

J. Vukobratovic
Senior Administrative Officer

HAMLET OF FORT MCPHERSON
BY-LAW # 147/00
SCHEDULE "A"

Failure to comply with Clean Up Order	\$100.00 first day
Neglecting a Clean Up Order	\$50.00/day
Allowing Animal Material to accumulate	\$50.00/day
Allowing Ashes/Burnt Wood to accumulate	\$50.00/day
Allowing Building material to accumulate	\$50.00/day
Allowing Waste Material to accumulate	\$50.00/day
Allowing Inoperable Vehicles, Machinery or Equipment to accumulate	\$50.00/day
Unauthorized Signs, Poster, billboards, Graffiti, Obscene or Offensive Symbols, Words or Art	\$50.00/day

Clean Up Orders will be issued to individuals or company's who, in the opinion of the Enforcement Officer, have allowed their land to become "Unsightly". Failure to comply with the Clean Up Order will result in a "Once Only" fine of \$100.00, and for every day thereafter that the Order is neglected, a fine of \$50.00/day corresponding to the particulars of the Order.

HAMLET OF FORT MCPHERSON
BY-LAW # 147/00
SCHEDULE "B"

CLEAN UP ORDER

Legal Description of Property(s): _____

Legal Owner(s) of Property(s): _____

Location of Property(s): _____

Order issued to: _____

The above noted property(s) are in violation of By-law #/00 "Unsightly Land By-law" for the following reason(s):

The following action is required to correct the violation(s): _____

THE ORDER MUST BE COMPLETED BY: _____

HAMLET OF FORT MCPHERSON
BY-LAW # 147/00
SCHEDULE "C"

FAILURE TO COMPLY WITH CLEAN UP ORDER

You have FAILED to comply with a Clean Up Order issued on: _____

For the Property(s): _____

Under Section 6.1 of the "Unsightly Land By-law".

The following action(s) will be taken against: _____

By the Hamlet of Fort McPherson. Any costs incurred from the above action(s), will be billed to :

If not completed as described above, the Hamlet of Fort McPherson may enter onto the property(s) in questions and complete the work. The cost of such work will be billed to: _____

And is payable within thirty (30) days of demand.

_____ : you may lodge an appeal, in writing, to the SAO of the Hamlet of Fort McPherson, within fourteen (14) days of the issuance of this Order, stating the following:

1. state with reasonable exactness, the reason for appeal.
2. State your name, address and interest in the property.
3. Date and signature of the appellant.

By-law Enforcement Officer

Date Issued