

**TOWN OF ALBERTON
DANGEROUS, HAZARDOUS AND UNSIGHTLY PREMISES
BYLAW #2020-03**

BE IT ENACTED by the Council of the Town of Alberton as follows:

1. Title

- 1.1. This bylaw shall be known as, and may be cited as, the "Dangerous, Hazardous and Unsightly Premises Bylaw"

2. Purpose

- 2.1. The purpose of this bylaw is to establish a Dangerous, Hazardous and Unsightly Premises Bylaw for the Town of Alberton.

3. Scope

- 3.1. This Bylaw shall apply to all Property in the Town of Alberton.

4. Definitions

- 4.1. "Agricultural Purposes" means the use of any land for the purpose of soil conservation, crop production or raising of livestock.
- 4.2. "Building" includes any structure or erection used or intended to be used for supporting or sheltering any use or occupancy.
- 4.3. "Town" means the Town of Alberton
- 4.4. "Council" means the Council of the Town of Alberton
- 4.5. "Dangerous or Hazardous Building" includes
- (a) A Building where the walls or other vertical structural members list, lean or buckle to such an extent that it presents a danger to the occupants or other persons or property;
 - (b) A Building which shows clear damage or deterioration of the foundation supporting member or members;
 - (c) a Building which has improperly distributed loads upon the floor or roofs or structural supporting members or in which the same are overloaded, or which has insufficient strength to be reasonably safe for the intended use or occupation; (as defined by the Building Codes Act of PEI, Section 16)

- (d) a Building which has
 - i. become dangerous to life, safety, or the health and welfare of the occupants or the general public;
 - ii. deteriorated so as to substantially depreciate the value of the property in the vicinity; or
 - iii. has peeling paint, holes in the wall, broken windows etc, or otherwise considered to be a detriment to the general appearance of the Town.

- 4.6. "Derelict Vehicle" means a used motor vehicle or the body or chassis of a used motor vehicle that
 - (a) is not in an operating condition, by reason of removed wheels, motor, transmission or functioning equipment necessary for its operation; or
 - (b) is rusted, wrecked or partly wrecked, or is dismantled or partly dismantled; or is not insured and registered under The Highway Traffic Act and does not have a current, valid license plate attached to it; or has been entirely or partially located outside of a building for more than one month.

- 4.7. "Inspector" means the Fire Inspector, Fire Chief, Building Inspector, Maintenance Staff, Bylaw Enforcement Officer, Police Officer or their designate who is to carry out the duties assigned by Chief Administrative Officer pursuant to this Bylaw.

- 4.8. "Litter" includes
 - (a) rubbish, refuse, garbage, waste materials, papers, packages, containers, bottles, cans or parts thereof; and
 - (b) any article, product, machinery, mobile home or other manufactured goods which are dumped, discarded, abandoned or otherwise disposed of.

- 4.9 "Notice" refers to notice being provided by the Inspector pursuant to Part VIII Section 8.2 or 8.3.

- 4.10. "Owner" includes
 - (a) a land owner as listed in the Assessment Role compiled by the Provincial Department of Finance under the Real Property Assessment Act, Cap. R-4, R.S.P.E.I. 1988, and amendments thereto, which printed Assessment Role is issued to the Town of Alberton at the beginning of each year (with printed updates throughout the year), tenant, lessee or other person in possession or occupancy of a Property;
 - (b) an executor, administrator, trustee, agent or other person managing a Property for the registered landowner; and

- (c) in any prosecution of a contravention of this Bylaw, the Owner of a Property may be proved prima facie by a certificate purporting to be signed by the Chief Administrative Officer, and it shall not be necessary to prove the authenticity of such signature and where the name in the certificate is the same as that of the person charged with an offence, it is prima facie evidence that he is the person named in the certificate.

4.11. "Property" includes all or any part of trees, lands, Buildings, fixtures, foundations, scaffolding, fences, excavations, depressions, drains, ditches, culverts, wells, or loose impediments.

4.12. "Unsightly Property" includes any Property or part thereof upon which there is Litter, any Dangerous or Hazardous Building, any Derelict Vehicle or part thereof.

4.13. "Vacant Building" means any Building which is unoccupied.

4.14. "Vehicle" includes a motor vehicle, trailer, boat, motorized snow vehicle, mechanical equipment, farm implement or any vehicle drawn, propelled or driven by any kind of power including muscular power.

5. ADMINISTRATION

5.1. This Bylaw shall be administered and enforced by Inspectors.

6. PROPERTY STANDARDS

6.1 No Owner of any Property shall permit the Property or any Building thereon to be or become:

- (a) an Unsightly Property;
- (b) a Dangerous or Hazardous Building; or
- (c) otherwise hazardous, dangerous, a fire hazard, in need of paint or general upkeep which includes but is not limited to repairing, replacing or painting the building, trim, glazing, sheathing, siding, eaves, or any other materials in order to repair or maintain the appearance or structural quality of the Building.

6.2 Every Building and every part thereof shall be maintained in a structurally sound condition so as to be capable of safely sustaining its own weight and any normal load to which it may be subject.

6.3 Grass on Property:

- a) Grass on any Property, except for that Property or any part thereof being used for Agricultural Purposes, shall be maintained at a height of 150 mm or less.
- b) Where Property that is undeveloped or in the process of being developed meets or shares a common boundary with any other land, at the discretion of the Inspector the requirement to maintain the grass on that Property in accordance with subsection (a) may be limited to a distance of not less than twenty meters (20m) from the common boundary.

6.4 Derelict Vehicles:

- a) A person must not park, store or leave a Derelict Vehicle on a residential property;
- b) An Owner or occupant of a Property must not permit a Derelict Vehicle to be parked, stored or left on his or her property.

6.5 Any Vehicle that does not display on the windshield affixed to the motor vehicle, a valid unexpired motor vehicle inspection approval sticker issued under the Highway Traffic Act, R.S.P.E.I. 1988, Cap. H-5, as amended, and is

- a) inoperative by reason of removed wheels, battery, motor, transmission or equipment necessary for its operation; or
- b) in a state of disrepair or is unsightly by reason of missing doors, glass or body parts, shall not be parked, stored or left on any property unless duly authorized by a permit issued pursuant to the Automobile Junk Yards Act, R.S.P.E.I. 1988, Cap. A-25, as amended.

6.6 All Property shall be kept clean and free of:

- a) objects or conditions that may create fire, health, dangerous, or accident hazards;
- b) Litter; or
- c) heavy undergrowth, with the exception of any land being used or Agricultural Purposes.

6.7 Property on which a Vacant Building is located shall be secured to prevent unauthorized access to the Vacant Building by:

- (a)
 - (i) having the doors and windows or other openings replaced or repaired and locked, provided that all windows shall be secured by use of a clear hard material such as, but not limited to, glass or other clear polymer material of at least 5 mm in thickness; or

- (ii) in the event continued damage to property occurs after subsection (a)(i) above has been complied with or where unauthorized access is occurring, covering the doors and windows or other openings with a solid wooden material; and
 - (iii) securing the land on which the Vacant Building is located by a fence at least 1.5 meters in height;
- or
- (b) a combination of all or any of the above if prior written approval of the proposed measures for securing the Vacant Building is obtained from the Inspector.

6.8 Where materials are used to secure a Vacant Building or Property:

- a) Where wooden material is used to secure a Vacant Building it shall be painted to match the trim colour of the Vacant Building and all material used to cover the openings must properly fit inside the outer window or door trim or other opening.
- b) All material used to secure a Property shall be properly maintained, which includes the replacement of any materials, painting or other work necessary for good maintenance of the Property in relation to the surrounding neighborhood.

6.9 Where a Property or Building has been secured pursuant to Section 6.7 (a) for more than eighteen (18) months, it may be referred to Council and Council may order it to be repaired or demolished in accordance with PART VII of this Bylaw.

7. STANDARD FOR REPAIR, VACATION OR DEMOLITION

7.1 The following standards shall be applied by the Inspector in ordering repair, vacation, or demolition of Property:

- a) any Property that is in a condition that makes it dangerous to the health, safety or general welfare of its occupants or is a Dangerous or Hazardous Building shall be ordered vacated;
- b) any Property that can reasonably be brought into compliance with the requirements of this Bylaw shall be ordered repaired;
- c) any Property that cannot reasonably be repaired or that has been ordered repaired but repairs have not been completed by the deadline set out in the notice pursuant to Section 8.3(c) herein or any extensions granted pursuant to Section 8.7 shall be ordered demolished; and

- 7.2 In addition to any Notice which may be issued pursuant to Part VIII, the Inspector shall place the following "Dangerous or Hazardous Building Notice" on any Dangerous or Hazardous Building:

"This Building has been found to be a Dangerous or Hazardous Building by the Inspector pursuant to the Town of Alberton Dangerous, Hazardous and Unsightly Premises Bylaw. Pursuant to the Bylaw, this Notice is to remain on this Building until it is vacated, repaired, or demolished in accordance with the Notice which has been given to the Owner of this Building. It is unlawful to remove this Notice until such Notice is complied with.

8. ENFORCEMENT STANDARDS

- 8.1 The Inspector may, in accordance with this Bylaw, enter on any Property at any reasonable time to ascertain whether the requirements of this bylaw, or any Notice issued pursuant to this bylaw, are being observed.

- 8.2 If an Owner has failed to perform any of its obligations pursuant to sections 6.1 (a), 6.2., 6.3, 6.4, 6.5 or 6.6 the Inspector, at their discretion, may serve on such owner a Notice which requires the owner to remove the contravention:

- a) Within 30 days or,
- b) Within 14 days or,
- c) Within 7 days,

if the Inspector believes the contravention is a violation under this bylaw.

- 8.3 If an owner has failed to perform the obligations pursuant to sections 6.1 (b), 6.7, 6.8 or 6.9 the Inspector, at their discretion, may serve on such owner a notice which requires the owner to remove the contravention:

- a) Within 90 days or,
- b) Within 60 days or,
- c) Within 30 days,

if the Inspector believes the contravention is a nuisance under this bylaw.

- 8.4 The Notice shall be issued to the Owner and shall:

- a) be in writing;
- b) state in which respect(s) the Property does not meet the requirements of this Bylaw and what must be done to the Property to bring it into compliance with the requirements of this Bylaw; and
- c) state the date before which the Property shall be brought in to compliance with the requirements of this Bylaw.

- 8.5 The Notice shall be served:
- a) by personal delivery of the Notice to the Owner; or
 - b) by depositing the Notice in the mail by certified letter to the address of the Owner;
or
 - c) by posting the Notice in a conspicuous place on the Property
- 8.6 The date of service of the Notice is deemed to be:
- a) in Section 8.4(a), the date of delivery of the Notice to the Owner;
 - b) in Section 8.4(b), the date stated on an acknowledgment card received from Canada Post for a certified letter which indicates the date the card is received;
 - c) in Section 8.4(c), the date the Notice is posted on the property.
- 8.7 The Inspector may extend the time for compliance with any Notice issued pursuant to this Part provided there is evidence of intent to comply with any such Notice and reasonable cause exists to prevent immediate compliance.

9. NON-COMPLIANCE

- 9.1 Where the Owner of the Property upon whom a Notice pursuant to Part VIII Section 8.2 has been served, does not comply with the requirements of such Notice, the Town may, by its own forces or those of a contractor, immediately enter on the Property and carry out the work described in the Notice at the expense of the Owner, in order to bring the Property into compliance with the requirements of this Bylaw.
- 9.2 The Inspector, with the assistance of the legal team of the Town, shall cause the costs of such vacation, repair or demolition or other work done to be charged against the Property as a municipal lien or to be recorded in a suit of law against the Owner; provided that, in any cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, safety or general welfare of the people of the Town, the Inspector shall notify the legal team of the Town to take legal action to force the Owner to take all necessary actions to comply with this Bylaw.
- 9.3 Where the Owner of the Property upon whom a notice pursuant to Part VIII Section 8.3 has been served, does not comply with the requirements of such Notice, the Inspector shall immediately notify Council who may authorize an Inspector by resolution, through its own forces or those of a contractor, immediately enter on the Property and carry out the work described in the resolution at the expense of the Owner, in order to bring the Property into compliance with the requirements of this Bylaw. A resolution passed by Town Council shall be in effect for eighteen months (18) months from the date of passing and enables the Inspector to re-enter at any time to remedy a recurring condition.

9.4 The Inspector, with the assistance of the Solicitor of the Town, shall cause the costs of such vacation, repair or demolition or other work done to be charged against the Property as a municipal lien or to be recorded in a suit of law against the Owner; provided that, in any cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, safety or general welfare of the people of Town, the Inspector shall notify the Solicitor of the Town to take legal action to force the Owner to take all necessary actions to comply with this Bylaw.

10. EMERGENCY CASES

10.1 In cases where it reasonably appears that there is immediate danger to the life or safety of any person, unless a "Dangerous or Hazardous Building" as defined herein is immediately vacated, repaired or demolished, the Inspector or their designate shall report such facts to the Bylaw Enforcement Officer or their designate and the Bylaw Enforcement Officer or their designate shall take all steps necessary to effect the immediate repair, vacation or demolition of such building. The costs of such emergency vacations, repair, or demolition of such building shall be collected in the same manner as provided in Section 9.4.

11. SEVERABILITY

11.1 It is the intention of Council that each separate provision of this Bylaw shall be deemed independent from all other provisions of this Bylaw, such that if any provision of this Bylaw is declared invalid, all other provisions of this Bylaw shall remain valid and enforceable.

12. PENALTIES FOR DISREGARDING NOTICES

12.1 Any Owner who fails to comply with all terms of any "Dangerous and Hazardous Building Notice" issued pursuant to Section 7.2 of this Bylaw shall be guilty of an offence and liable on summary conviction to the following fines:

- a) First offence – Minimum fine \$300 – Maximum fine \$750
- b) Second offence – Minimum fine \$600 – Maximum fine \$1,250
- c) Third offence – Minimum fine \$900 – Maximum fine \$1,750
- d) Fourth and subsequent offence – Minimum fine \$1,200 – Maximum fine \$2,250

12.2 Any Owner who fails to comply with all terms of any Notice issued under this Bylaw other than a "Dangerous and Hazardous Building Notice" issued pursuant to Section 7.2 of this Bylaw shall be guilty of an offence and liable on summary conviction to a fine. For each offence and where an offence under this Bylaw is committed or continued to be

committed for more than one week, the person who committed the offence is liable to be convicted for a separate offence for each week the offence is committed or continued.

13. EFFECTIVE DATE

13.1 This Dangerous, Hazardous and Unsightly Premises Bylaw #2020-3 shall be effective on the date of approval and adoption below.

First reading:

This Dangerous, Hazardous and Unsightly Premises Bylaw #2020-3 was read a first time at Council meeting held on the 14th day of September 2020.

This Dangerous, Hazardous and Unsightly Premises Bylaw #2020-3 was approved by a majority of Council members present at the Council meeting held on the 14th day of September 2020.

Second reading:

This Dangerous, Hazardous and Unsightly Premises Bylaw #2020-3 was read a second time at Council meeting held on the 13th day October 2020.

This Dangerous, Hazardous and Unsightly Premises Bylaw #2020-3 was approved by a majority of Council members present at the Council meeting held on the 13th day of October 2020.

This Dangerous, Hazardous and Unsightly Premises Bylaw #2020-3 was adopted by a majority of Council members present at the Council meeting held on the 13th day of October 2020.

14. SIGNATURES



Mayor (signature sealed)



Chief Administrative Officer (signature sealed)

This Dangerous, Hazardous and Unsightly Premises Bylaw, Bylaw #2020-3 adopted by the Council of the Town of Alberton on the 13th day of October 2020 is certified to be a true copy.

Donna Thomson

Chief Administrative Officer

(signature sealed)

October 21, 2020

Date

Filed on behalf of the Minister of Fisheries and Communities in accordance with s.129 of the *Municipal Government Act*.

TA