

BY-LAW NO. 2322/GEN/13
MUNICIPAL CORPORATION OF THE TOWN OF HAY RIVER

A BYLAW of the Municipal Corporation of the Town of Hay River in the Northwest Territories, to control and prevent the unsightly appearance of land and to minimize the effects of unsightly land on adjoining property.

PURSUANT TO Sections 70 and 72, CITIES, TOWNS AND VILLAGES ACT, S.N.W.T., 2003, c-22 and Section 10 of the ENVIRONMENTAL PROTECTION ACT, R.S.N.W.T. 1988, c. E-7; and the SUMMARY CONVICTION PROCEDURES ACT, R.S.N.W.T., 1988, c. S-15;

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

AND WHEREAS the purpose of this Bylaw is to prevent the existence and proliferation of unsightly land and to provide a mechanism for the remediation of property, which has become unsightly land;

NOW THEREFORE BE IT RESOLVED that the Council of the Town of Hay River enacts as follows:

SHORT TITLE

1. This Bylaw shall be cited as the **“UNSIGHTLY LAND BYLAW”**.

DEFINITIONS

2. In this Bylaw, unless the context otherwise requires, the term:
 - a. “accessory building” means a building separate from but complementing the main structure on a lot;
 - b. “animal material” means any animal excrement and includes all material accumulated on property from pet pens, yards, chicken coops, stables, veterinary clinics/hospitals or kennels;
 - c. “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;
 - d. “building” means any structure with walls and a roof used or occupied or intended for supporting or sheltering any use or occupancy,
 - e. “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,

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- vegetation or rock displaced during such construction, alteration or repair;
- f. "Clean Up Order" means an Order issued under this Bylaw by an Enforcement Officer with respect to unsightly land within the Town;
 - g. "Council" means the Council of the Town of Hay River;
 - h. "Director of Finance" means the person appointed as Director of Finance of the Town of Hay River and includes any person designated by them to act on their behalf;
 - i. "Enforcement Officer" means a Bylaw Enforcement Officer as appointed by Town Council or an RCMP Officer;
 - j. "garbage" means material composed of organic matter which is or may become decomposed, including the by-products from the preparation, consumption or storage of food;
 - k. "junked vehicle" means any automobile, tractor, truck, trailer or other vehicle that either, has no valid licence plates attached to it; or is in a rusted, wrecked, partly wrecked, dismantled, partly dismantled, inoperative or abandoned condition;
 - l. "nuisance" means a condition of property; a thing; a plant; or an activity; that affects or may affect the amenity of a neighborhood or the safety, health and welfare of people in the neighborhood, and includes a building in a ruinous or dilapidated state of repair; an occupied or unoccupied building that is damaged and is an imminent danger to public safety; land that is overgrown with grass and weeds; untidy and unsightly property; junked vehicles; or open excavations on property.
 - m. "obstructing an officer" A person is guilty of obstructing an enforcement officer if the person willfully hinders, delays, or obstructs any enforcement officer in the discharge of his or her official powers or duties.
 - n. "occupant" means and includes;
 - i. a person residing on land or in a building;
 - ii. a person entitled to the possession of land or a building if there is no person residing on the land or in the building; and
 - iii. a leaseholder;

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o. "owner" means:

- i. a person who is registered under the Land Titles Act as the owner of the property;
- ii. the person who is recorded as the owner of the property on the assessment roll of the Town;
- iii. a person who has purchased or otherwise acquired any interest in the property, whether he 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;
- iv. a person holding himself out as the person having the power and authority of ownership or who for the time being exercises the powers and authority of ownership;
- v. a person who is the occupant of the property under a lease, license or permit;

p. "property" means any land, building or property, whether real or personal, within the municipal boundaries of the Town;

i. Residential – Made up of parcels which are predominantly used for residential purposes. This class includes:

1. land and associated single family detached properties,
2. mobile units used principally for residential purposes,
3. land upon which the mobile units are located,
4. duplex, triplex and quadruplex parcels,
5. condominiums,
6. vacant land zoned for residential purposes, and
7. undeveloped land which lies adjacent to a residential parcel.

ii. Commercial – Made up of all parcels which are predominantly used for commercial purposes, which includes but is not limited to parcels:

1. used principally for the provision of goods and services,
2. used for residential purposes not described,
3. used for works, transmission lines and pipelines,
4. used predominantly for parking, and
5. vacant land zoned for commercial purposes.

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- iii. **Industrial – Made up of all parcels which are predominantly used for industrial purposes, which includes but is not limited to parcels:**
 - 1. principally used for the manufacturing, processing or other industrial purposes upon which improvements are situated,
 - 2. land which is vacant or developed with improvements used for the provision of transportation services, and
 - 3. vacant land zoned for industrial or transportation purposes.

- q. **“quadruplex” means a residential structure containing four dwelling units;**

- r. **“right of access” means the right of an Enforcement Officer to enter property for the purpose of inspection, and 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;**

- s. **“SAO” means the person appointed as Senior Administrative Officer of the Town of Hay River and includes any person designated by them to act on their behalf;**

- t. **“Town” means the Municipal Corporation of the Town of Hay River or the area contained within the Town boundaries as the context requires;**

- u. **“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 of;**
 - i. any rubbish, refuse, garbage, papers, packages, containers, bottles, cans, manure, human excrement or sewage or the whole or a 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;
 - ii. equipment or machinery which has been rendered inoperative by reason of its disassembly, age or mechanical condition;
 - iii. animal material, yard material, ashes, building material and garbage as defined in this Bylaw;

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- iv. all forms of waste, refuse litter as defined under this Bylaw;
 - v. in the case of external surfaces of buildings unsightly land 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.
- v. "work force" means Town employees or contract workers engaged by the Town for the purposes of enforcing a Clean Up Order;
- w. "yard material" means organic matter formed as a result of gardening or horticultural pursuits and includes grass, tree and hedge cuttings and clippings, plus excessive growth of grass, weeds, trees and hedges.
- x. "voluntary penalty" means fines paid before the court date specified on the ticket. Fines not paid before the date on the ticket are subject to an increase of fine up to \$5,000.00 for a residence or \$10,000.00 for a corporation.

APPLICATION

3. No owner of property shall allow his or her property to become unsightly land as defined in this Bylaw.
4. Unless otherwise specified, the owner shall be responsible for carrying out the provisions of this bylaw.
5. No person shall cause or permit a nuisance to occur on any property owned or occupied by that person.
6. Notwithstanding the generality of section 5, no person shall cause or permit a building or structure to deteriorate into a ruinous or dilapidated state such that the building or structure;
 - a. is dangerous to the public health or safety; or
 - b. substantially depreciates the value of other land or improvements in the neighborhood.
7. Notwithstanding the generality of section 5, no person shall cause or permit an unoccupied building to become damaged or to deteriorate into a state of disrepair such that the building is an imminent danger to public safety.

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8. Notwithstanding the generality of section 5, no owner or occupant of land shall cause or permit the land to be overgrown with grass or weeds;
 - a. for the purposes of this section, overgrown means in excess of twenty (20) centimeters in height (8 inches);
 - b. this section shall not apply to any growth which forms part of a natural garden that has been deliberately implemented to produce ground cover, including one (1) or more species of wildflowers, shrubs, perennials, grasses or combinations of them, whether native or non-native, consistent with a managed and natural landscape other than regularly mown grass.
9. Notwithstanding the generality of section 5, no person shall cause or permit any land or buildings to become untidy and unsightly due to the accumulation of new or used lumber, cardboard, paper, newspapers, appliances, tires, cans, barrels or other waste materials.
10. Notwithstanding the generality of section 5, no person shall cause or permit any junked vehicle to be kept on any land owned by that person that is located on private land, but is not within a structure erected in accordance with any law respecting the erection of buildings and structures in force within the town in which the land is situated; and does not form a part of a business enterprise lawfully being operated on that land.
11. In determining whether a property is unsightly land as defined in this Bylaw, an Enforcement Officer shall have regard to the use of the property and the provision of applicable Zoning Bylaws, other Bylaws, and applicable statutes and regulations of Canada and the Northwest Territories.
12. Notwithstanding the generality of section 5, no person shall cause or permit any basement, excavation, drain, ditch, watercourse, pond, surface water, swimming pool or other structure to exist in or on any private land or in or about any building or structure which is dangerous to the public safety or health.
13. All property, including land, buildings and structures, shall be maintained in accordance with the minimum standards prescribed in this part;
 - a. no person shall cause or permit the occupancy or use of any property, including land, buildings or structures that do not conform to the minimum standards;



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- b. notwithstanding section 4, every occupant of a property, including land, buildings and structures, shall;
 - i. keep in a clean and sanitary condition that part of the property that the occupant occupies or controls;
 - ii. maintains exits to the exterior of the building in a safe and unobstructed condition;
 - iii. dispose of garbage and refuse and keep the property free from rubbish and other debris which might constitute fire, health or safety hazards; and
 - iv. keep any supplied fixtures clean and sanitary and exercise reasonable care in their proper use and operation.

 - c. a yard shall be kept free and clean from;
 - i. garbage;
 - ii. holes and excavations that could cause an accident;
 - iii. an infestation of rodents, vermin or insects;
 - iv. tall grass and all kinds of weeds;
 - v. dead or hazardous trees; and
 - vi. sharp or dangerous materials.

 - d. a yard shall be graded in such a manner so as to prevent;
 - i. excessive ponding of water; and
 - ii. excessive dampness accumulating near buildings or structures.

 - e. any building materials, lumber, scrap metal, boxes or similar items stored in a yard shall be neatly stacked in piles and elevated off the ground so as not to constitute a nuisance or harborages for rodents, vermin and insects. Materials shall be elevated at least one hundred fifty (150) mm off the ground. Any refrigerator or freezer left in a yard shall first have its hinges, latches, lid, door or doors removed.
14. If an Enforcement Officer has reason to believe that any property is unsightly or nuisance land he may exercise a right of access to the property in order to inspect the property and to determine whether the property contravenes the provisions of this Bylaw.
15. It is an offense to obstruct an Enforcement Officer while doing their duties.

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16. If an Enforcement Officer considers any property to be unsightly or nuisance land, the Enforcement Officer may issue a Clean Up Order. Each Order shall:
- a. describe the property by name, if any, and the municipal address or legal description or a plan showing the location of the property;
 - b. state that the property contravenes the provisions of this Bylaw;
 - c. give reasonable particulars of the extent of the clean up, removal, clearing or other actions required to be made;
 - d. state the time within which the clean up, removal, clearing or other action is to be completed;
 - e. state that if the required actions are not done within the time specified, the Town may carry out the actions required and charge the cost thereof against the person to whom the Order is directed and if such person does not pay the costs, the costs shall be charged against the property concerned as taxes due and owing in respect of that property, and recovered as such; and
 - f. state that an appeal lies from the issuance of this Order to Council if an appeal is lodged in writing with the SAO within fourteen (14) days of the date of issuance of the Order. 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 his behalf by his agent and, if signed by an agent, shall state the name and address of the agent.
 - g. where a Clean Up Order is appealed pursuant to subsection f, the Order is stayed pending a decision of Council.
 - h. a decision of Council shall be final.
17. A copy of the Order shall be served upon an owner of the property and may be served on any person shown by the records of the Land Titles Office to have an interest in the property.
- a. an Order may be served:
 - i. by being delivered personally to the person who is intended to be served; or
 - ii. by mailing the Order to the person to be served by registered mail to the last known address of the person to be served, and service shall be deemed to be effected at

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- the time the copy is delivered by an official to the Post Office to the person to be served; or
- iii. where the property is not occupied, by mailing the notice by registered mail to the mailing address noted on the Town's tax roll for that property, and service shall be deemed to be effected at the time the copy is delivered by an official to the Post Office to the person to be served; or
- b. where in the opinion of the Enforcement Officer, service under subsection a 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 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.
18. The Enforcement Officer may extend the time for doing anything which is required to be done by the terms of the Order.
19. 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.
20. Council shall consider each appeal having regard to the circumstances and merits of the case and applicable provision of this bylaw.
21. When hearing an appeal Council shall:
- a. not be bound by the technical rules of evidence; and
- b. afford to every person concerned the opportunity to be heard, to submit evidence and to hear the evidence of others.
22. Council may confirm, vary, or revoke the Clean Up Order or may substitute its decision in place of the Clean Up Order, which was issued.
- a. Council may extend the time within which anything required to be done by the Clean Up Order is to be performed.
- b. Council 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.
23. The person to who an Order is directed shall comply with the directions of the Order as set out in the Order of the Enforcement Officer or in the case

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of an appeal the requirements or directions set out in any decision of Council.

24. If a person to whom an Order is directed under this Bylaw fails to carry out the Order within the time stated, in the case of an Order that is not appealed, or within the time limited in the case of an Order that is appealed, an Enforcement Officer may exercise a right of access to the unsightly or nuisance 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.
25. The Town or persons appointed by the Town 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 and state of repair equivalent to that which was found.
26. The expenses incurred by the Town in carrying out an Order shall constitute a debt owing to the Town from the person to whom the order is directed.
27. Within thirty (30) days of ascertaining the amount of the expenses incurred by the Town in carrying out the Order, the SAO shall send a demand for payment of these expenses to the person to whom that Order was directed.
28. Where the Town carries out an Order and the person to whom the Order is directed fails, within thirty (30) days after a demand for payment, to pay the expenses incurred by the Town, the SAO shall place the amount of the expenses incurred in carrying out the Order on the tax roll as an additional tax against the property concerned.
29. Where the Town carries out an Order the work forces shall deposit any material removed from unsightly land at a location designated by the SAO.
30. The SAO may direct that the material removed under section 29 be disposed of if the person to whom an Order has been issued does not remove the material within fourteen (14) days of being requested to do so.
31. Any person or corporation who violates any provision of this Bylaw is guilty of an offence and is liable on Summary Conviction to:

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- a. a fine not less than \$200.00 and not more than five thousand dollars (\$5,000.00) for Residential properties and a fine not less than two hundred dollars (\$200.00) and not more than ten thousand dollars (\$10,000.00) for commercial/industrial properties per day of the offense.
 - b. any other Order; and
 - c. any other Order that may be imposed by the Court as outlined in Section 152 (3) of the *CITIES, TOWNS AND VILLAGES ACT*.
32. An Enforcement Officer may issue a Summary Offence Ticket in the form prescribed by the SUMMARY CONVICTION PROCEDURES ACT AND REGULATIONS, to any person who violates any provision of this Bylaw and such person may, in lieu of prosecution, pay the voluntary penalty for the offence as listed in Schedule A, attached hereto and forming part of this By-law, prior to the court date specified on the ticket.
33. Monies received from the fines payable related to this Bylaw will be utilized for the beautification of the community.
34. That BYLAW 2009/GEN/06 is hereby repealed.

READ A FIRST TIME this 26th day of August, 2013.



Mayor

READ A SECOND TIME this 26th day of August, 2013.



Mayor

READ A THIRD AND FINAL TIME this 17th day of February, 2014. A.C.
2013.



Mayor

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CERTIFIED that this bylaw has been made in accordance with the requirements of the Cities, Towns and Villages Act, S.N.W.T., 2003, and the bylaws of the Municipal Corporation of the Town of Hay River this 17th day of February, 2014.



Senior Administrative Officer

**TOWN OF HAY RIVER
UNSIGHTLY LAND BYLAW**

Schedule A

Voluntary Penalties Per Day of Offense

<u>Offence</u>	<u>Section</u>	<u>Penalty</u>
Unsightly Land	3	\$200.00
Nuisance Land	5	\$200.00
Safety or Health Hazard	12	\$200.00
Obstructing an Officer	15	\$200.00
Failure to Comply With an Order	16	\$200.00

