

Town of Souris By-laws

BY-LAW No. 2004-07

Dangerous, Hazardous and Unsightly Premises

BE IT ENACTED BY THE TOWN COUNCIL OF THE TOWN OF SOURIS
PURSUANT TO THE MUNICIPALITIES ACT, R.S.P.E.I.

PART I: TITLE

1. 1.1 This By-law shall be cited as the “Town of Souris Dangerous, Hazardous and Unsightly premises By-law” and may be cited as the “Unsightly Premises By-law: from time to time.

PART II: SCOPE

2. 2.1 This By-law shall apply to all property in the Town of Souris.

PART III: DEFINITIONS

3. In this By-law:

3.1 “abandoned” means deserted; forsaken, given up completely;

3.2 “Animal Material” means any animal excrement, animal remains and includes all material accumulated on a premises from pet pens, yards, stables, veterinary clinics or hospitals, kennels or feed lots;

3.3 “Ashes” means the powdery residue accumulated on a premises and left after the combustion of any substance and includes, any partially burnt wood, charcoal or coal;

3.4 “building material” means all construction and demolition material accumulated on premises 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;

3.5 “Chief Administrative Officer” means a person designated by the Council as its Chief Administrative Officer or his designate;

3.6. “Clean up Order” means an order issued under this by-law by an Enforcement Officer with respect to unsightly premises within the Town;

3.7. "Council" means the elected Council of the Town;

3.8. "Dangerous or Hazardous Building" includes;

(a) a Building or structure 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 or structure which shows clear damage or deterioration of the foundation supporting member or members;

(c) a Building or structure 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 for the intended use or occupation;

(d) a Building or structure which has:

(i) become dangerous to life, safety, or the health and welfare of the occupants or the general public, or

(ii) deteriorated so as to substantially depreciate the value of the property in the vicinity, or

(iii) become a detriment to the general appearance of the Town.

(iv) deteriorated by virtue of broken windows, tom roofing or defects, which have rendered it in a condition of substantial disrepair.

(v) fire, smoke, or water damage, or any other fire associated damage.

3.9. "Enforcement Officer" means any member of the Royal Canadian Mounted Police or a duly authorized By-law Enforcement Officer of the Town, or Chief Administrative Officer.

3.10 "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 manufactured goods which are dumped, discarded, abandoned, or otherwise disposed of.

3.11 "Owner" includes:

(a) a land owner as listed in the Assessment Role compiled by the 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 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 By-law, the Owner of a Property may prove 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/she is the person named in the certificate.

3.12 “Premises” means the external surfaces of all buildings and the whole or part of any land, including land immediately adjacent to any building, situated in whole, or in part in the Town and includes any land or buildings owned or leased by the Town;

3.13 “Property” includes all or any part of lands, buildings, foundations, scaffolding, fences, excavations, depressions, drains, ditches, culverts, wells, or loose impediments;

3.14 “right of access” means the right of an Enforcement Officer to enter onto a property to inspect the 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”;

3.15 “unsightly premises” means any property or part of it which is characterized by visual evidence or a lack of general maintenance and upkeep by the excessive accumulation on the premises of;

(i) any rubbish, refuse, garbage, papers, packages, containers, bottles, cans, article, product, machinery, mobile home, or manufactured good which are dumped, discarded, abandoned, or otherwise disposed of;

(ii) the whole or part of any motor vehicle or vehicles:

(a) which has no current license plate attached to it and in respect of which, no registration certificates has been issued for the current year; and

(b) which is inoperative by reason of removed parts, or equipment;

(iii) equipment or machinery which has been rendered inoperative by reason of its disassembly, age, or mechanical condition and includes any household appliances;

(iv) all forms of waste, refuse and litter as defined under the Provincial Island Waste Management Corporation.

3.16 “Vacant Building” means any building which is unoccupied;

3.17 “Vehicle” includes a motor vehicle, trailer, boat, motorized snow vehicle, mechanical equipment” farm implement, or any other vehicle drawn, propelled or driven by any kind of power including muscular power;

3.18 “work force” means Town employees or contract workers engaged by the Town for the purposes of enforcing a “Clean Up Order” ;

3.19 “Yard Material” means organic matter formed as a result of gardening or horticultural pursuits and includes grass, tree and hedge cuttings and clippings, leaves.

PART IV: ADMINISTRATION

4. 4.1 This By-law shall be administered and enforced by the Chief Administrative Officer, By-law Enforcement Officer, or Royal Canadian Mounted Police.

PART V: PROPERTY STANDARDS

5. 5.1 No owner of any Property shall permit the Property or any Building thereon to become;

(a) an Unsightly Property; or

(b) otherwise hazardous, dangerous, a fire hazard, unsightly, 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;

5.2 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.

5.3 (a) Grass on any Property, except for that Property or any part thereof being used for Agricultural Purposes shall, be maintained.

(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 By-law Enforcement Officer 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 (20) meters from the common boundary.

5.4 Any vehicle that does not display on the windshield affixed to the motor vehicle, a valid unexpired motor vehicle inspection approved 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.

5.5 All Property shall be kept clean and free of:

(a) objects or conditions that may create fire, health or accident hazards; or

(b) heavy undergrowth, with the exception of any land being used for Agricultural Purposes.

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

(a) 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.

(b) In the event continued damage to property occurs after subsection (a) above has been complied with or where unauthorized access is occurring, by covering the doors and windows or other openings with a solid wooden material; and;

(i) securing the land on which the Vacant Building is located by a fence at least 1.5 meters in height; or

(c) 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 By-law Enforcement Officer, or the Chief Administrative Officer.

5.7 Where wooden material is used to secure a Vacant Building it shall be painted to match the trim color of the Vacant Building and all material used to cover the openings must properly fit inside the outer window, door trim or other openings.

5.8 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 neighbourhood.

5.9 Where a Property or Building has been secured pursuant to section 5.6 (a) & (b) for more than twelve (12) months, it may be referred to Council and Council may order it to be repaired or demolished in accordance with Part VI of this By-law.

PART VI: STANDARDS FOR REPAIR, VACATION, OR DEMOLITION

6. 6.1 The following standards shall be applied by the By-law Enforcement Officer, Chief Administrative Officer, or Council in ordering repair, vacation, or demolition of Property:

(a) any property that is in a condition that makes it dangerous to health, safety or general welfare of its occupants, or occupants of adjoining property, the general public or is a Dangerous or Hazardous Building shall be ordered vacated, repaired or demolished;

(b) any property that can reasonably be brought into compliance with the requirements of this By-law 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 7.3(c) herein or any extension granted pursuant to Section 7.6 shall be ordered demolished; and

(d) all designated heritage buildings pursuant to applicable By-laws shall receive a recommendation from a Heritage Review Board prior to demolition of the building or any part thereof.

6.2 In addition to any Notice which may be issued pursuant to Part VII, the By-law Enforcement Officer or Chief Administrative Officer shall place a “Dangerous or Hazardous Building Notice” on any Dangerous or Hazardous Building. See Schedule “A” for notice.

PART VII: ENFORCEMENT STANDARDS

7. 7.1 The By-law Enforcement Officer, Chief Administrative Officer, or his/her designate, may inspect any Property where in his/her opinion such property violates any of the provisions of this By-law.

7.2 Where, in the opinion of the By-law Enforcement Officer, Chief Administrative Officer, or his/her designate, any Property that does not meet the requirements of this By-law, he/she shall issue a Notice pursuant to Section 7.3.

7.3 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 By-law and what must be done to the Property to bring it into compliance with the requirements of this By-law; and

(c) state the date before which the Property shall be brought in to compliance with the requirements of this By-law, which date is not to exceed ninety (90) days from the date Notice is deemed to be served pursuant to Section 7.5

7.4 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;
and

(c) by posting notice in a conspicuous place on Property.

7.5 The date of service of the Notice is deemed to be:

(a) in Section 7.4 (a), the date of delivery of the Notice to the Owner;

(b) in Section 7.4(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 7.4(c), the date the Notice is posted on the Property.

7.6 In any prosecution for an offence under this By-law, when proof of the service of the Notice is made, the burden of proving that he/she is not the person named or referred to in the Notice shall be upon the person charged.

7.7 No action, prosecution or other proceedings shall be brought or shall be instituted against the Town of Souris, its work force, or agents for any authorized act done in pursuance or execution or intended execution of any duty, or duly authorized authority done under the By-law in respect of any alleged neglect, or default, in the execution of any such duty or authority.

7.8 Any expenses incurred by the Town of Souris for removing or remedying the cause of the "Unsightly Premises" as defined in this By-law shall be paid by the Owner or occupier of the premises and shall be a debt owing to the Town of Souris and recoverable in any court of competent jurisdiction.

7.9 The By-law Enforcement Officer, or Chief Administrative Officer may extend the time of the 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.

PART VIII: NON-COMPLIANCE

8.1 Where the Owner of the Property upon whom a Notice pursuant to Part VII has been served, does not comply with the requirements of such Notice, the By-law Enforcement Officer shall notify the Town Council through the Chief Administrative Officer, who may authorize the By-law Enforcement Officer, or Chief Administrative Officer to enter the Property without warrant or other legal process and thereupon carry out any and all work as stated in the Notice in order to bring the Property into compliance with the requirements of this By-law. A Resolution passed by the Town Council shall be in effect for six (6) months from the date of passing and enables the By-law Enforcement Officer or Chief Administrative Officer to re-enter at any time to remedy a recurring condition.

8.2 The Chief Administrative Officer shall cause the costs of such vacation, repair, 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 of Souris, the Chief Administrative Officer shall take legal action to force the Owner to take all necessary actions to comply with this By-law.

PART IX: EMERGENCY CASES

9. 9.1 In cases where it reasonably appears that there is immediate danger to the life of any person, unless a “Dangerous or Hazardous Building” as defined herein is immediately vacated, repaired, or demolished, the Chief Administrative Officer or his/her designate shall take all steps necessary to effect the immediate repair, or demolition of such Building. The costs of such emergency vacations, repairs, or demolition of such Building shall be collected in the same manner as provided in Section 8.2 of this By-law.

PART X: SEVERABILITY

10. 10.1 It is the intention of the Town Council that each separate provision of this By-law shall be deemed independent from all other provisions of this By-law, such that if any provision of this By-law is declared invalid, all other provisions of this By-law shall remain valid and enforceable.

PART XI: INTERPRETATION

11. 11.1 In this By-law words impounding the singular shall include the plural and words impounding the masculine gender shall include the female gender and vice versa.

PART XII: PENALTIES

12. 12.1 Any person who contravenes Part V of this By-law is guilty of an offence and liable on summary conviction;

(a) for first offence, to a fine of ONE HUNDRED DOLLARS (\$100.00) and in default of payment to imprisonment for a term of not more than five (5) days;

(b) for a second offence, to a fine of FIVE HUNDRED DOLLARS (\$500.00) and in default of payment to imprisonment for a term of not more than twenty (20) days;

(c) for a third offence, to a fine of ONE THOUSAND DOLLARDS (\$1,000.00) and in default of payment to imprisonment for a term of not more than thirty (30) days.

(d) for a fourth or subsequent offence to a fine of a maximum amount of FIFTEEN HUNDRED DOLLARS (\$1,500.00) or for a term of imprisonment not exceeding six (6) months.

12.2 Any person who contravenes Part VI or Part VII of this By-law is guilty of an offence and liable:

(a) for first offence, a fine of THREE HUNDRED DOLLARS (\$300.00) in default of payment to imprisonment for a term of not more than seven (7) days.

(b) for a second offence, a fine of SEVEN HUNDRED DOLLARS (\$700.00) and in default of payment to imprisonment for a term of not more than thirty (30) days.

(c) for a third offence, a fine of ONE THOUSAND DOLLARS (\$1,000.00) and in default of payment to imprisonment for a term not more than forty-five (45) days.

(d) for fourth and subsequent offence to a fine of FIFTEEN HUNDRED DOLLARS (\$1,500.00) and in default of payment to imprisonment. for a term not exceeding six (6) months.

12.3 For each offence, and where an offence under this By-law is committed or continued to be committed for more than one (1) week, the person who committed the offence is liable to be convicted for a separate offence

PART XIII: REPEAL

13. 13.1 All former Dangerous, Hazardous and Unsightly Premises By-laws are hereby repealed.

SCHEDULE "A"

"THIS BUILDING/STRUCTURE HAS BEEN FOUND TO BE DANGEROUS OR HAZARDOUS PURSUANT TO THE TOWN OF SOURIS DANGEROUS, HAZARDOUS, AND UNSIGHTLY PREMISES BY-LAW. PURSUANT TO THE BY-LAW, THIS NOTICE IS TO REMAIN ON THIS BUILDING/STRUCTURE UNTIL IT IS REPAIRED, VACATED, OR DEMOLISHED IN ACCORDANCE WITH THE NOTICE WHICH HAS BEEN GIVEN TO THE OWNER OF THE BUILDING/STRUCTURE. IT IS UNLAWFUL TO REMOVE THIS NOTICE UNTIL SUCH NOTICE IS COMPLIED WITH."

Read for the first time on June 12, 2004, Town Council Meeting

Read a second time on June 29, 2004, Town Council Meeting

MAYOR Joe O'Keefe

ADMINISTRATOR Mildred Ehler