

**HAMLET OF ARVIAT
BY-LAW NUMBER 205**

A By-law of the Municipal Corporation of the Hamlet of Arviat in Nunavut, to control and prevent the unsightly appearance of land and to minimize the effects of unsightly land on adjoining property, pursuant to Section 10 of the *Environmental Protection Act*, R.S.N.W.T., 1988, c. E-7 as amended by Statutes enacted under Section 76.5 of *Nunavut Act*; and *Summary Convictions Procedures Act*, R.S.N.W.T., 1988, c. S-15;

As unsightly land is a detriment to surrounding properties and the immediate neighbourhood generally; and

As Council deems it advisable to pass a by-law to regulate unsightly land; and

As the purpose of this by-law 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, THE COUNCIL OF THE HAMLET OF ARVIAT at a duly assembled meeting, enact as follows:

SHORT TITLE

1. This by-law may be cited as the "Unsightly Land By-law".

INTERPRETATION

2. In this by-law:

"animal material" means any animal excrement and includes all material accumulated on property from pet pets, yards, stables, veterinary clinics or hospitals or kennels;

"ashes" means the powdery residue accumulated on property left after the combustion of any substances and include any partially burnt wood, charcoal, coal or other material;

"building material" means all construction and demolition material accumulated on property wile construction, altering, repair or demolishing any structure and includes, but not limited to, earth, vegetation or rock displaced during such construction, alteration or repair;

"Officer" means a By-law Enforcement Officer or Land Officer as appointed by the Hamlet Council;

- “Clean Up Order” means an Order issued under this by-law by an Enforcement Officer with respect to unsightly land within the municipality;
- “Council” means the Council of the Municipality of Arviat;
- “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,
 - iii. a person who has leased or otherwise acquired any interest in the property, whether he has purchased, leased or otherwise acquired any interest in the property directly from the owner or from another purchaser, and has not become the registered owner or lessee thereof and a tenant of a rental unit,
 - iv. a person holding himself out as the person having the powers and authority of the ownership or who for the time being exercises the powers and authority of the ownership,
 - v. a person controlling the property under construction, or
 - vi. a person who is the occupant of the property under a lease, license or permit;
- “property” means any land, building or property, whether real or personal, within the municipal boundaries of the Municipality;
- “right of access” means the right of a By-law Officer or Land Officer to enter 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;
- “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:
- i. any rubbish, refuse, paper, packages, containers, bottles, can, 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,
 - ii. equipment or machinery which has been rendered inoperative by reason of its disassembly, age or mechanical condition,

- iii. animal material, yard material, ashes, and building material as defined in this By-law,
 - iv. all forms of garbage, litter, refuse and waste as defined under this By-law, and
 - 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, siding, trim, roofing material, soffits material and eave troughs;
- “work forces” means Hamlet employees or contract workers engaged by the Hamlet for the purposes of enforcing a Clean Up Order; and
- “SAO” means the Senior Administrative Officer of the Hamlet.

APPLICATION

3. No owner or lessee 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 Officer shall have regard to the use and location of the property and the provision of applicable Zoning By-law, Land Use Plan, other by-laws, any applicable statutes and regulations of Canada and Nunavut.
5. If an Officer has reason to believe that any property is unsightly land he/she may exercise a right of access to the property in order to inspect the property to determine whether the property contravenes the provisions of the By-law.
6.
 - a. If an Officer considers any property to be unsightly land, the Officer may issue a Clean Up Order.
 - b. Each Order shall:
 - i. describe the property by name, if any, and the municipal address or legal description or a plan showing the location of the property;
 - ii. state that the property contravenes the provision of this By-law;
 - iii. give reasonable particulars of the extent of the clean up, removal, clearing or other actions required to be made;
 - iv. state the time within which the clean up, removal, clearing or other action is to be completed, subject to Section 8;
 - v. state that if the required actions are not done within the time specified, the Municipality 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

- vi. state that an appeal lies from the issuance of this Order to Council if an appeal is lodged in writing with the Officer or SAO within fourteen (14) days of the date of issuance of the Order.
7.
 - a. 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.
 - b. An Order referred to in subsection 7.a may be served:
 - ii. by mailing the Order to the person to be served by registered mail to the last known past 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; or
 - iii. where the property is not occupied, by mailing the notice by registered mail to the mailing address noted on the Municipality tax roll for that property, and service shall be deemed to be effected to be served; or
 - iv. as directed by the Court.
 - c. If, in the opinion, of the Officer, service under subsection 7.b cannot reasonably be effected, the 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 the person 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; or

- d. to do all or any of the matters specified in subsections 8.b – 8.c.
9. The Officer may extend the time for doing anything which is required to be done by the terms of the Order.
10.
 - a. Where a Clean Up Order is issued pursuant to Section 6, such Clean Up Order may be repealed within fourteen (14) days to Council.
 - b. Where a Clean Up Order is appealed pursuant to subsection 10.a the Order is stayed pending a decision by Council on the appeal.
 - c. A decision by Council shall be final.
11.
 - a. Council may confirm, vary, or revoke the Clean Up Order or may substitute its decision of the Clean Up which was issued.
 - b. Council may extend the time within which anything required to be done by the Clean Up Order is to be performed.
 - c. 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.
12.
 - a. Appellants must submit notice of their appeal in writing to the SAO or Land Officer within fourteen (14) days of the date of the issuance of the Clean Up Order.
 - b. 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/her behalf by his agent and, if signed by the agent, shall state the name and address of the agent.
13. The Land Officer or 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 Land Officer or SAO of the Notice of Appeal.
14. Council 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 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.
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 directions set out in any decision of Council.
- 17.
- a. If a person to whom an order is directed under this By-law fails to carry out the Order within the time stated in such Order, in the case of an Order that is not appealed, or within the time limited by the Council in the case of an Order that is 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.
 - b. The municipality or persons appointed by it 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.
 - c. The expenses incurred by the Municipality in carrying out an Order under this Section constitute a debt owing to the Municipality from the person to whom the Order is directed.
 - d. Within thirty (30) days of ascertaining the amount of the expenses incurred by the Municipality in carrying out the Order, the Director of Finance or Finance Officer shall send a demand for payment of these expenses to the person to whom the Order was directed.
 - e. Where the Municipality carries out an Order under this Section the work forces shall deposit the material removed from the unsightly land at the location designated by the SAO or designate.
 - f. Notwithstanding subsection 17.e where the Enforcement Officer is of the opinion that the material removed under 17.e has no value he may direct that the material be disposed of.
 - g. When the material removed from unsightly land under subsection 17.e is removed to a location specified by the SAO, he may direct that the material 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 in writing to do so.

18. a. Any person or corporation who violates any provision of this By-law is guilty of an offence and is liable on Summary Conviction to:
- i. a fine not exceeding one thousand (\$1,000) for an individual or five thousand (\$5,000) for a corporation;
 - ii. any other order; and
 - iii. any other order that may be imposed by the court as outlined in Section 182 of the *Hamlets Act*.
- b. No person found guilty of an offence pursuant to this By-law shall be liable to imprisonment.
19. A By-law Officer may issue a Summary Offence Ticket information in the form prescribed by the *Summary Conviction Procedures Act and Regulation*, to any person who violates any provision of this By-law and such person may, in lieu of prosecution, pay the Municipality the voluntary penalty for the offense as listed in Schedule A, attached hereto and forming part of this By-law, prior to the court date specified on the ticket.

EFFECT

20. This By-law shall come into force upon receiving Third Reading and otherwise meets the requirements of Section 57 of the *Hamlets Act*.

READ a First Time this 28th day of September, 2010

READ a Second Time this 28th day of September, 2010

Bob
Mayor

[Signature]
Senior Administrative Officer

READ a Third Time and Finally Passed this 26th day of October, 2010

Bob
Mayor

[Signature]
Senior Administrative Officer



**HAMLET OF ARVIAT
BY-LAW NUMBER**

Schedule A

Voluntary Penalties

<u>Offence</u>	<u>Section</u>	<u>Penalty</u>
Unsightly Land	3	\$
Failure to Comply with an Order	16	\$