

Administrative Policy # 2021-03

Dangerous or Unsightly Premises Policy

1. Purpose

This policy is entitled the “Dangerous or Unsightly Premises Policy”.

- a. It is the desire of the Council that every property in the Town of Digby be maintained such that the property is not dangerous or unsightly. This policy defines the manner of action the Town of Digby will undertake where a property is alleged to be dangerous or unsightly.
- b. Dangerous or unsightly premises and/or properties subject to this policy is as set out in Section 3(r) of the Municipal Government Act of Nova Scotia.
 - i. (r) “dangerous or unsightly” means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing:
 - i. Ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item or equipment or machinery, or bodies of these or parts thereof,
 - ii. An accumulation of wood shavings, paper, sawdust, dry and inflammable grass or weeds or other combustible material, or,
 - iii. Any other thing that is dangerous, unsightly, unhealthy or offensive to person, and includes property, a building or structure,
 - iv. That is in a ruinous or dilapidated condition,
 - v. The condition of which seriously depreciates the value of land or buildings in the vicinity,

- vi. That is in such a state of non-repair as to be no longer suitable for human habitation or business purposes,
 - vii. That is an allurements to children who may play there to their danger,
 - viii. Constituting a hazard to the health or safety of the public,
 - ix. That is unsightly in relation to neighbouring properties because of exterior finish of the building or structure or the landscaping is not maintained,
 - x. That is a fire hazard to itself or to surrounding lands or buildings, or
 - xi. That has been excavated or had fill placed on it in a manner that results in a hazard.
- ii. Property Owners subject to this policy will be as set out in Section 3(ay)(ii) of the Municipal Government Act of Nova Scotia.
- i. “owner” includes
 - 1. (ii) as it refers to the owner of property
 - a. a part owner, joint owner, tenant in common or
 - b. joint tenant of the whole or any part of land or a building, in the case of the absence or incapacity of the person having title to the land or building, a trustee, an executor, a guardian, an agent, a mortgagee in possession or a person having the care or control of the land or building,
 - c. a person who occupies shores, beaches or shoals, and
 - d. in the absence of proof to the contrary, the person assessed for the property;
- iii. The meaning of words and phrases herein shall have the same meaning as set out in the Municipal Government Act of Nova Scotia.

2. Definitions

- a. **Administrator** – The Administrator of Dangerous or Unsightly Premises designated by the Chief Administrative Officer responsible for the dangerous or unsightly premises provisions of the MGA and the Dangerous or Unsightly Policy.

- b. Chief Administrative Officer** – the Chief Administrative Officer of the Town of Digby
- c. Council** – Council of the Town of Digby
- d. MGA** – Municipal Government Act SNS 1998, c. 18, part XV (as amended)
- e. Order** – Order to Remedy (Appendix C)
- f. Town** – the Town of Digby

3. Delegation

- a.** The Council delegates the authority to act where property is dangerous or unsightly to the Administrator, except the authority to order demolition.
- b.** Council retains the authority to issue dangerous and unsightly premises orders in instances in which an order to demolish is being considered, and to hear appeals of orders issued by the Administrator or the Council.

4. Report of Dangerous or Unsightly Conditions

- a.** The Town shall only conduct an investigation of a dangerous property once a complaint has been received.
- b.** The reporting of a dangerous or unsightly property (complaints) can be made by a resident, rate payer, or staff of the Town of Digby or from a public sector agency engaged in public safety or enforcement (i.e., RCMP, Fire Department, SPCA and Province of NS) (Complainants). Complaints shall be received in a written format either on a Town of Digby Complaint Form (Appendix A) or via letter or email. Each complaint must include the complainant's name and contact information. The complaint must be signed by complainant. Anonymous complaints will not be investigated.
- c.** Complaints shall be considered confidential but are subject to Part XX of the Municipal Government Act, Freedom of Information Protection of Privacy.
- d.** The Administrator shall acknowledge receipt of a complaint by regular mail to the complainant.
- e.** Notwithstanding the above, the Administrator may act in the absence of a complaint where the Administrator is satisfied that a dangerous situation is present or where it

is deemed a property poses an immediate safety concern subject to the MGA, Part XV, section 350.

- i. Where public safety requires immediate action, the administrator may immediately take the necessary action to prevent danger or may remove the dangerous structure or condition.
- f. Within fourteen (14) days the Administrator shall make an initial site inspection and complete an Investigation and Case Form (Schedule B) inspection report. If necessary, with the approval from the Chief Administrative Officer, the Administrator may extend the period for completing the initial site inspection by up to thirty (30) additional days.

5. Initial Site Report

- a. In the preparation of the initial site inspection report, the Administrator will determine whether the property is dangerous or unsightly. The Administrator may take photographs and video recordings of the property as necessary to document its condition.
 - i. If the Administrator determines that the property is not dangerous or unsightly the file will be closed and the reporting person notified.
 - ii. If the Administrator determines that the property is unsafe, the Administrator shall make an order to have the property made safe, until the unsafe condition is remedied and/or may make an order to vacate the premises.
 - iii. If the Administrator determines public safety requires immediate action, the Administrator takes action to prevent damage or may remove the dangerous structure or condition.
 - iv. If the Administrator determines the property is dangerous or unsightly, and where immediate action is unnecessary, the Administrator may make an order, by mail or posting on the property, of what is required to remedy the unsightly or dangerous condition within thirty (30) days of the date of the order, or other reasonable time frame. Where an alleged dangerous or unsightly property has been reported, the Administrator shall advise the complainant of the action taken.
 - v. A “repeat offender” is defined as the owner of the property for which the Town has received a valid second complaint within 365 days of a previous valid complaint.

- ii. The visibility of the unsightly condition from public places such as streets, parks or recreation facilities
- iii. How the alleged unsightly property impacts the ability of the complainant and/or properties neighbouring the alleged unsightly property to enjoy their own properties. The local or community context of the unsightly condition.

8. Order To Remedy

- a. In the event that the dangerous or unsightly condition has not been remedied in accordance with a notice given, the Administrator may order an owner to remedy the condition. The Order to Remedy (Appendix C) shall be posted on the property in a conspicuous place and a copy shall be sent to the owner by regular mail or personal service. The Order shall give the owner thirty (30) days to remedy the condition, or other reasonable time frame dependent on the extent of the work to be done, inclement weather or other restrictions. An Order made by the Administrator may be appealed to the Council within seven (7) days after the Order is made.
- b. In the event of a repeat offender, the Administrator may order immediate remedy, except ordering demolition as a remedy. The order shall be posted on the property and a copy shall be sent to the owner by Mail.
- c. An order made by the Administrator may be appealed to Council within seven (7) days after the order is made.

9. Appeal Process

Appeals can be made at any time up to seven (7) days after receiving or having an Order posted to a property. Consideration may be given to property owners who ask for extensions to remedy orders based on special circumstances. Appeals can be submitted in writing to Town Council for consideration or the property owner may appear at an appeal hearing prior to a Town Council meeting to discuss the Order with Town Council in person. In order to appeal an order, the property owner must complete the proper form and submit it to the Town Clerk. (Appendix D)

10. Demolition

- a. In this Policy, “an order to demolish” includes an order to completely remove a building and includes an order to remedy the condition by demolition or complete removal of a building.
- b. In the event that the Administrator determines that the property is dangerous or unsightly, and is of the opinion that the remedy the condition demolition is necessary,

the owner shall be given not less than seven (7) days' notice of the date, time, and place of the Council meeting at which the making of such order will be considered by Council. The owner must complete the proper form and submit it to the Town Clerk. (Appendix D)

- c. If Council considers demolition necessary to remedy the property, an Order will be issued to the owner of the property with directions to demolish. The Order shall be posted in a conspicuous place on the property and a copy shall be sent to the owner by regular mail or personal service. The Order shall give the owner thirty (30) days to remedy the condition, or other reasonable time frame dependent on the extent of the work to be done, inclement weather or other restrictions.

11. Court Order

Notwithstanding any of the above, the Town may also apply to a court of competent jurisdiction for a declaration that a property is dangerous or unsightly and for an order specifying the work required to be done to remedy the condition.

12. Enforcement

- a. Where an owner fails to comply with an Order made pursuant to this Policy herein within the time specified, the Administrator may enter upon the property without warrant or other legal process in order to carry out the work specified in the Order without further notice to the owner.
- b. Where the owner fails to comply with an Order made herein within the specified time, the owner may be charged pursuant to the powers granted under Part XV and Section 507 of the MGA. The MGA provides for the recovery of any money expended by the municipality under a dangerous or unsightly premises order. Where a municipality lawfully causes work to be done under the MGA, the cost of the work, along with interest owing, is considered the first lien on the property. Under the MGA, section 507; 133.3 (bz), a lien is defined as a tax and therefore is recoverable by the municipality as taxes.
- c. Where the owner fails to comply with an Order made pursuant to this policy herein within thirty (30) days after being served and where the Administrator intends to carry out the work specified in an Order, the Administrator shall obtain an estimate of cost involved and if the estimate cost exceeds one thousand five hundred dollars (\$1500.00), the Administrator shall obtain the approval of Council before carrying out the work.
- d. Where the owner fails to comply with an order made pursuant to this policy herein, within:


- i. thirty (30) days of service where the property is not declared to be in a dangerous condition; or
- ii. The time specified in the order, but not more than within thirty (30) days of service, where the property is declared to be in dangerous condition,

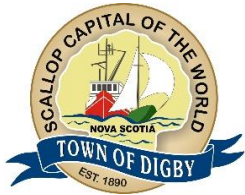
The owner may be charged pursuant to the powers granted under the Municipal Government Act.

- e. The municipality may prosecute for failure to obey the order by issuing a summary offence ticket. Each day during which the condition is not remedied is a separate offense of not less than one hundred (\$100) dollars and not more than (\$5,000) under the MGA, section. 348.

13. Repeal

This policy replaces and repeals Dangerous or Unsightly Premises Policy# 2010-09

<u>Clerk's Annotation for Official Policy Book</u>	
Date of Notice:	April 19, 2021
Date of adoption:	May 3, 2021
Policy effective date:	May 4, 2021
I certify that this Dangerous or Unsightly Premises Policy was adopted by Council as indicated above.	
 _____	_____ May 4, 2021
Clerk	Date



Dangerous or Unsightly Policy Appendix “A” (page 1 of 2) Complaint Form

Name:

Address:

Email Address:

Phone Number:

Complaints shall be considered confidential but are subject to Part XX of the *Municipal Government Act & Freedom of Information and Protection of Privacy Act.

Check any that apply:

- Ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item or equipment or machinery, or bodies of these or parts thereof,
- An accumulation of wood shavings, paper, sawdust, dry and inflammable grass or weeds or other combustible material, or,
- Any other thing that is dangerous, unsightly, unhealthy or offensive to a person, and includes property, a building or structure,
- That is in a ruinous or dilapidated condition,
- The condition of which seriously depreciates the value of land or buildings in the vicinity,
- That is in such a state of non-repair as to be no longer suitable for human habitation or business purposes,
- That is an allurements to children who may play there to their danger,
- Constituting a hazard to the health or safety of the public,

That is unsightly in relation to neighbouring properties because of exterior finish of the building or structure or the landscaping is not maintained,

Dangerous or Unsightly Policy Appendix “A” (page 2 of 2)
Complaint Form

That is a fire hazard to itself or to surrounding lands or buildings, or

That has been excavated or had fill placed on it in a manner that results in a hazard.

Address of Dangerous and Unsightly Property:

Please provide specific details of the infraction:

<p>FOR OFFICE USE ONLY</p> <p>Date of Property Inspection: _____</p> <p>Order to Remedy Necessary: _____ yes _____ no</p> <p>Date Complainant Notified of Action: _____</p> <p>Case # _____</p> <p>Case Administrator: _____</p> <p style="text-align: center;">RETAIN THIS FORM IN CASE FILE</p>
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Dangerous or Unsightly Policy Appendix “B” (page 1 of 2) Investigation and Case Form

Administrator: _____

Case #: _____

Property Address & PID:

Date of Complaint:

Reason for Complaint:

Property Background:
(previous orders against property / other complaints against property)

Chronology of Case Activities

Date	Action	Notes
	Initial Complaint Filed	
	Property inspection	
	Order to Remedy	
	Conversations with Owner	
	Appeal	
	Inspections	
	Closing of Case	

Dangerous or Unsightly Policy Appendix “B” (page 2 of 2)
Investigation and Case Form

Financial Implications:

(Expenses incurred by the Town, Liens, Summary Offense Tickets)

Risk Considerations / Environmental Implications:

Files Attached:

Appendix A – Complaint Form

Appendix C – Order

Appendix D – Appeal

Photographs etc.



Dangerous or Unsightly Policy Appendix “C” (page 1 of 2) Order to Remedy

Date: _____

Order Served Upon: _____

Address / PID: _____

This is to advise you that you are in violation of the Municipal Government Act Part XV, Dangerous and Unsightly Premises. A copy of the Dangerous and Unsightly Premises Policy for the Town of Digby is attached to this notice.

Details of Violation:

Violation to be remedied as per the following:

You will have 30 days in which to rectify the violation. If you wish to appeal this order, you may do so by contacting the Town Clerk within seven (7) days of the date of this notice. Your appeal will be brought to Town Council in writing and/or in-person as a delegation for consideration. (See Form - Schedule D)

Notice of Re-inspection:

A re-inspection will be performed after _____ to confirm the above noted violation(s) has been rectified. If you have any questions regarding this matter, please contact the issuing officer prior to the re-inspection date.

Bruce Baxter, Administrator of Dangerous or Unsightly Premises
bylawenforcement@digby.ca
902-245-8798

Dangerous or Unsightly Policy Appendix “C” (page 2 of 2)
Order to Remedy

Failure to obey this order may result in Summary of Offense tickets, where each day during which the condition is not remedied is a separate offence, to a penalty of not less than one hundred (\$100) dollars and not more than five thousand (\$5,000) dollars per day. MGA Part XV, s.348 (4)

Failure to obey this order allows the administrator to enter upon the property without warrant or other legal process and carry out the work specified in the order. Where a municipality lawfully causes work to be done under the MGA, the cost of the work, along with interest owing, is considered a first lien on the property. MGA Part XV, s.348 (3)



Dangerous or Unsightly Policy Appendix “D” (page 1 of 2) Notice of Appeal

Name: _____

Property Address: _____

Mailing Address: _____

Email Address: _____ Phone Number: _____

Date of Order: _____

Appeals can be made at any time up to seven (7) days after receiving or having an Order posted to a property. Consideration may be given to property owners who ask for extensions to remedy orders based on special circumstances. Please select one of the following reasons for your appeal:

- Weather conditions Monetary
 Illness Other
 Estate Do not agree with the complaint against the property

Please explain the reason for appeal:

I wish to attend the Appeal Hearing as a delegation

If you choose to attend as a delegation, the Town Clerk will inform you of the next available Town Council Meeting. Appeals are held prior to the Regular Town Council meeting. Your appeal will be reviewed and you will be contacted by either the Town Clerk or the Administrator in regards to your request.

E. Tom Ossinger Town Clerk
eossinger@digby.ca
147 First Avenue, PO Box 579, Digby, NS, B0V 1A0

Received by the Town Clerk:

Dangerous or Unsightly Policy Appendix “D” (page 2 of 2)
Notice of Appeal
Order of Proceedings for Appeals to Town Council

The Chair will open each of the hearings and address the following:

- The Chair will ask the Appellant to identify themselves or the representative will identify themselves and provide a signed letter from the Appellant
- The Chair will briefly explain how the hearing will proceed
- The Town of Digby Administrator will explain the basis for the order under review and provide documentation of the case
- Town Council may ask questions to the Administrator for clarification
- The Appellant may ask questions to the Administrator for clarification
- Witnesses may be permitted to provide factual evidence relevant to the appeal
- Appellant’s Presentation – The Appellant is given up to ten (10) minutes to support the appeal
- Town Council may ask questions to the Appellant or witnesses
- Town Council may ask questions to the Administrator
- The Administrator may ask questions to the Appellant
- Town Council then debates their decision and renders a decision with the Appellant (or their representative) present
- Upon motion, Town Council may move In-Camera (In Private) to obtain confidential legal advice at any time during the process.
- Town Council has four (4) alternatives:
 - Cancel the Order (allow the appeal)
 - Amend the Order (change the conditions)
 - Keep the Order as is (appeal dismissed)
 - Continue the hearing at a later date (defer)

If the Appellant is not present, the Town Clerk will notify them of Town Council’s decision.

All decisions made during an Appeals Hearing will be documented in the case files by the Administrator and a copy will be sent to the Appellant.

Hearings to Town Council are open to the public and any information, including personal information, which is provided or obtained in relation to your appeal, will be matter of public record.