

MUNICIPALITY OF THE DISTRICT OF ARGYLE <b>POLICY AND ADMINISTRATION MANUAL</b>	REFERENCE NUMBER _____
SECTION <b>ADMINISTRATION</b>	SUBJECT <b>DANGEROUS &amp; UNSIGHTLY  PREMISES POLICY</b>

## 1. TITLE

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

## 2. DEFINITIONS

2.1. In this policy “an order to demolish” includes an order to completely remove a building and includes an order in which demolition or complete removal of a building is ordered only in the event of non-compliance by an owner of some other directive.

2.2. “Argyle” means the Municipality of the District of Argyle.

2.3. “Argyle TLC Program” is a financial relief application program led by Argyle to assist a qualified taxpayer in their effort to maintain or clean up a property that was considered Dangerous or Unsightly as defined in 2.4 below.

2.4. “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

- a) ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item of equipment or machinery, or bodies of these or parts thereof,
- b) an accumulation of wood shavings, paper, sawdust, dry and inflammable grass or weeds or other combustible material,
- c) an accumulation or collection of materials or refuse that is stockpiled, hidden or stored away and is dangerous, unsightly, unhealthy or offensive to a person,
- d) any other thing that is dangerous, unsightly, unhealthy or offensive to a person, and includes property or a building or structure with or without structural deficiencies
- e) that is in a ruinous or dilapidated condition,
- f) the condition of which seriously depreciates the value of land or buildings in the vicinity,
- g) that is in such a state of non-repair as to be no longer suitable for human habitation or business purposes,
- h) that is an allurements to children who may play there to their danger,
- i) constituting a hazard to the health or safety of the public,

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- j) that is unsightly in relation to neighbouring properties because the exterior finish of the building or structure or the landscaping is not maintained,
- k) that is a fire hazard to itself or to surrounding lands or buildings,
- l) that has been excavated or had fill placed on it in a manner that results in a hazard,
- m) that is in a poor state of hygiene or cleanliness;

**2.5. “Derelict vehicle, vessel, item of equipment or machinery”** includes a vehicle, vessel, item of equipment or machinery that,

- a) is left on property, with or without lawful authority, and
- b) appears to the administrator to be disused or abandoned by reason of its age, appearance, mechanical condition or, where required by law to be licensed or registered, by its lack of licence plates or current vehicle registration;

**2.6. “Qualified property”** means an owner-occupied residential property located within the Municipality of the District of Argyle, and does not include non-profit owned buildings, nor does it include business or industrial premises.

**2.7. “Qualified taxpayer”** means a resident and qualified property owner that was ordered to demolish or clean their property by our Bylaw Enforcement Officer through the provisions of this policy, **and** that meets one or both of the following criteria as indicated on the application form in appendix XVI

- a) Physical or mental health restrictions that prevents the taxpayer(s) from effectively cleaning their property;
- b) Financial restrictions that prevents the taxpayer(s) from effectively cleaning the property.

**2.8. “TLC Relief”** means the lump sum dollar amount to be subtracted from the total remedial costs accumulated during actions initiated by Argyle on behalf of the qualified taxpayer, with eligibility elements in section 5.

**2.9. TLC Repayment Plan** means a monthly payment plan agreement, not exceeding seven (7) years, between the qualified taxpayer and Argyle, resulting from a clean up of a Dangerous or Unsightly property in Argyle.

**2.10. “TLC Repayment plan interest”** means 4% per annum.

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### 3. GENERAL GUIDELINES

- 3.1. Council shall carry out hearings and issue dangerous or unsightly premises orders in incidences where an order to demolish is being considered.
- 3.2. Council delegates its authority to issue all other dangerous or unsightly premises orders to the Administrator of dangerous and unsightly premises, an employee of the Municipality designated by the Chief Administrative Officer to be responsible for the dangerous or unsightly premises provisions of the Municipal Government Act or successor legislation.
- 3.3. In circumstances where a complaint is received whereby premises are described as being dangerous or unsightly the following procedure shall be followed;
- a) The complaint shall be received in writing by the Administrator and duly documented;
  - b) The Administrator shall cause a visit to be undertaken upon the property which is the subject of the complaint and photos shall be taken as a result of the complaint; if as a result of the investigation, it is determined that demolition is proposed then the provisions of Clause 3.4 below shall be applied; if demolition is not proposed then that which follows in this Clause 3.3 shall be followed;
  - c) If the Administrator determines the property to be dangerous and/or unsightly, the owner or duly authorized representative of the owner shall be contacted to advise the owner or representative of his/her findings and shall explain to the owner of the work expected to be completed in order to remedy the condition. The Administrator shall issue an Order confirming the remedial work to be carried out and setting a deadline for the remedial work to be completed;
  - d) The Administrator shall serve a copy of the Order on the owner by mailing the Order using the current address contained in the Municipality’s tax records and shall post a copy of the Order in a conspicuous place on the subject property;
  - e) The Administrator shall cause a visit of the property and premises to be conducted immediately after the date in the Order by which the condition is to be remedied in order to ascertain whether or not compliance has been met with regards to remedying the condition;
  - f) The Administrator shall verify with the appropriate parties in order to determine whether or not the property is on the tax sale roll, such actions shall ensure all interested parties at the yearly “Tax Sale” are aware of any/or all “Orders” against the property;

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- g) If the Administrator determines that the property is not dangerous or unsightly the Administrator shall advise the person who filed the complaint of his/her decision;
- h) The focus of the Municipality and the Administrator is to encourage and incent the property owner to clean their own property without legal intervention from the Municipality. The CAO shall be permitted reasonable latitude in providing incentives. These incentives may include a **temporary** use of municipal staff to clean and/or transport items off the residents' property, if the environment is deemed a safe work environment.
- i) Further to section 3.3(h) above, the CAO may authorize a temporary release of the maximum weight restrictions as imposed by the Yarmouth County Solid Waste Management Authority. If, in the CAO's opinion, the resident is making a sincere effort in cleaning his/her own property subsequent to a request from the Municipality, the CAO may contact the Yarmouth County Solid Waste Management Authority authorizing a temporary elimination of the maximum weight restriction of 220kgs per household per week. The CAO shall be guided in this decision by the following factors:
- 3.3.i.1. The resident was asked to clean up their property under the provisions of this policy;
  - 3.3.i.2. The resident has already delivered material to the landfill and making a sincere effort to deliver additional material;
  - 3.3.i.3. The material on site, in the opinion of the Administrator, is well in excess of 220 kgs;
  - 3.3.i.4. In the opinion of the Administrator, the property would be cleaned more efficiently, to the benefit of neighbors and taxpayers.
- j) There is a right to appeal a decision of the Administrator by submitting a letter to the Chief Administrative Officer no later than nine days after the date of the Order of the letter advising of the rejection of the complaint;
- k) When a notice of appeal is received, the Administrator shall cause to be prepared a package for Council containing the following information,
- 3.3.k.1. Copy of the complaint received;
  - 3.3.k.2. Copies of the photos caused to be taken by the Administrator;

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3.3.k.3. A copy of the letter from the Administrator confirming the initial contact with the owner of the property or the representative of the owner, as the case may be;

3.3.k.4. A copy of the order to remedy as issued by the Administrator;

3.3.k.5. Arc Map mapping or photos to show the property boundaries;

3.3.k.6. Property on-line details of ownership;

3.3.k.7. Any other item of information deemed relevant in the circumstances.

- l) If the owner appeals the order of the Administrator and the appeal is granted in whole or in part, then either the order to remedy shall immediately be terminated or that portion of the order deemed not necessary by Council shall be removed from the order;
- m) If the owner files an appeal and, as a result of the appeal, Council confirms the order to remedy or, after the allotted period of time for an appeal has expired and no satisfactory remedial action has been taken by the owner then, in accordance with Section 348(3) of the Municipal Government Act the Administrator may enter upon the property without warrant or other legal process and carry out the work specified in the order. This work shall be carried out by a contractor engaged in accordance with the [procurement] policy of the Municipality of the District of Argyle in effect from time to time;
- n) Upon the remedial work being completed then the Administrator shall report to the CAO that the work has in fact been completed and shall also advise the owner that the work has been completed and that the cost shall be added as a first lien on the property in accordance with Section 507 of the Municipal Government Act.

**3.4.** If, as a result of a complaint received and investigated in accordance with Clause 3.3(a) and 3.3(b) above, it is determined that a demolition order is to be proposed, then the following procedure shall be followed:

- a) Upon the complaint being determined to be valid by the Administrator, the owner or duly authorized representative of the owner shall be contacted; the Administrator shall cause the owner or representative, as the case may be, to be explained the nature of the complaint as well as the results of the investigation conducted and, then, shall be provided with an explanation of the reasons why demolition is required;
- b) The Administrator shall cause a letter to be forwarded to the owner whereby that which is described in (a) above shall be outlined in writing,

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- c) If, the Administrator is recommending an order of demolition to Council then the Administrator shall cause to be prepared a package for Council containing the following information.
- 3.4.c.1. Copy of the complaint received;
  - 3.4.c.2. Copies of the photos caused to be taken by the Administrator;
  - 3.4.c.3. A copy of the letter from the Administrator confirming the initial contact with the owner of the property or the representative of the owner, as the case may be;
  - 3.4.c.4. Arc Map mapping or photos to show the property boundaries;
  - 3.4.c.5. Property on-line details of ownership;
  - 3.4.c.6. Any other item of information deemed relevant in the circumstances;
- d) In consultation with the Administrator the Chief Administrative Officer of the Municipality shall set a date when the proposed order for demolition shall be considered by Council and no less than seven (7) days before the date so set notice specifying the date, time and place of the meeting when Council shall consider the proposed order shall be given to the owner in the manner prescribed by sub-section 346(4) of the Municipal Government Act;
- e) Upon the date set for the above mentioned meeting the owner shall be given the opportunity to appear and be heard; thereafter Council shall decide whether or not to make an order to demolish in the circumstances; Council may adjourn the hearing to a later date if deemed appropriate;
- f) If Council makes a decision to issue an Order to demolish the Order will include a date by which the owner must have the demolition carried out, and shall advise the owner that after the date the Municipality shall enter the lands and carry out the demolition and the costs of such work shall constitute a lien against the property pursuant to Section 507 of the Municipal Government Act;
- g) The Administrator serve a copy of the Order on the owner by mailing the Order using the current address contained in the Municipality's tax records and shall post a copy of the Order in a conspicuous place on the subject property;

**3.5.** Notwithstanding that which precedes, pursuant to section 347 of the Municipal Government Act, Council may decide under any circumstances that the Municipality shall 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 by

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removal, demolition or repair.

**3.6.** The following order of priority will be used by the policy Administrator to determine which complaints or inspected properties are the most urgent to remediate:

- a) Dangerous structure or situation within a pre-defined distance (say 30-50 meters) of a roadway or a single-family dwelling;
- b) Unsightly situation within a pre-defined distance of a roadway or a single-family dwelling;
- c) Derelict vehicles.

#### **4. COMMUNITY INSPECTIONS**

**4.1.** In an attempt to decrease the amount of dangerous or unsightly properties, staff may, if resources and time permit, proactively inspect communities two (2) times a year (spring and fall) and look for dangerous or unsightly properties using the scope of inspections and order of priority established in this policy. The department of PIPW can then contact the owners of a dangerous or unsightly property to discuss their intentions and/or help if needed.

**4.2.** To focus staff's work, Council has chosen to concentrate its efforts on Highway #3, Highway #308, Highway #334, Highway #335 and Highway #203 as the properties on these roads are typically the most visible.

#### **5. RELIEF OF DANGEROUS AND UNSIGHTLY COSTS - ARGYLE TLC PROGRAM**

**5.1.** Argyle, in recognition of the needs of certain taxpayers is implementing a program named Argyle TLC Program, to financially assist qualified taxpayers in the Municipality. Property owners affected by dangerous or unsightly enforcement orders may apply for relief by completing the application forms as attached in the Appendix.

**5.2.** The Argyle TLC Program has two levels of assistance; namely the TLC Repayment Plan, which provides for a longer-term payment plan at a reduced rate of interest of 4% and the TLC Relief, which provides a forgiveness of a portion of the costs of clean up.

##### **5.3. TLC Repayment Plan:**

- a) The TLC Repayment Plan cannot exceed seven (7) years, and must be paid via monthly payments;

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- b) On completion of the TLC Repayment Plan agreement, it is considered a first lien levied against the taxpayer's property in accordance with Sections 507 and 133(3) of the Municipal Government Act.
- c) In the event of default of three (3) payments, consecutive or not, under the TLC Repayment Plan, the outstanding balance shall be immediately due and payable. Interest shall no longer be at the rate of the TLC Repayment Plan Interest, and shall instead be at the interest rate on outstanding taxes as set by Council at each Annual Meeting in April of each year. The remaining outstanding amount be treated identical to outstanding taxes payable and shall follow the same proceedings as municipal taxes for tax sale purposes.
- d) If the qualified taxpayer sells the property while there is an outstanding balance on the clean up subject to a repayment plan, the entire amount shall become payable and treated as taxes on the date of sale, except as to the interest otherwise payable thereon, and the owner shall be responsible for the entire outstanding amount.

#### **5.4. TLC Relief:**

- a) A qualified taxpayer may be entitled to a TLC relief amount if acceptable arrangements have first been made under the TLC repayment plan. The repayment plan arrangement shall presume no TLC relief in the determination of monthly payments.
- b) The TLC Relief amount shall be earned by the qualified taxpayer only after the municipality is in receipt of 12 monthly payments on the repayment plan. The relief shall be applied once a year at the end of the fiscal year for those qualifying for the relief.
- c) The qualified taxpayer loses eligibility for the TLC Relief if in the first 12 months, there were two missed payments.
- d) The qualified taxpayer is not entitled to a TLC Relief if at the time of the 12-month anniversary, the property remains unsightly, in the opinion of the Administrator.
- e) The Maximum funding under the TLC Relief is the lower of the following three calculations:
  - 5.4.e.1. 100% of the cost of tipping fees for material brought to a qualified landfill or transfer station;
  - 5.4.e.2. 20% of the total cost of the remediation to correct the site conditions;
  - 5.4.e.3. \$2,000.00.

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5.5. Any material taken from the property that has material value, in excess of \$500 dollars, shall be applied against the costs incurred by Argyle in a cleanup and not to the benefit of a qualified taxpayer.

## 6. TRANSITIONAL PERIOD

6.1. The Municipality has outstanding balances for property cleanup performed prior to December 31, 2019. These properties will only be entitled to TLC Relief as outlined in Section 5 if they are a qualified property, and the work was completed based on a dangerous property decision led by our Bylaw Enforcement Officer(s).

6.2. Unsightly clean ups of qualified properties prior to December 31, 2019 are limited to a grant not exceeding \$1,500. If those properties have been cleaned prior to December 31, 2019 and are still found to be unsightly at April 30, 2020, there will be no TLC Relief issued.

6.3. For clarity, any clean up of a qualified property, regardless of date, is eligible to apply for the TLC Repayment Plan.

### Chief Administrative Officers' Annotation for Official Policy Book

Date of Notice to Council Members

Of Intent to Consider [7 days minimum]: December 1, 2015

Date of Passage of Current Policy: December 8, 2015

I certify that this Policy was adopted by Council as indicated above.

\_\_\_\_\_

Warden

\_\_\_\_\_

Date

\_\_\_\_\_

Chief Administrative Officer

\_\_\_\_\_

Date