DISTRICT OF INVERMERE
BYLAW NO. 948

A bylaw to regulate nuisances, rubbish and unsightly property and premises.

WHEREAS the Council is authorized to exercise the powers contained in section 725 of the *Municipal Act*;

AND WHEREAS section 725 (1)(a) of the *Act* provides that the Council may, by bylaw, prevent, abate and prohibit nuisances, and provide for the recovery of the cost of abatement of nuisances from the person causing the nuisance or other persons described in the bylaw;

AND WHEREAS section 725 (1)(b) of the *Act* provides that the Council may, by bylaw, prohibit persons from causing or permitting water, rubbish, or noxious, offensive or unwholesome matter to collect or accumulate around their premises, or from depositing or throwing bottles, broken glass or other rubbish in any open place;

AND WHEREAS section 725 (1)(c), (d.) and (e) of the *Act* provides that the Council may, by bylaw, for the purpose of preventing and remedying unsightliness on real property, prohibit persons from placing graffiti on walls, fences or elsewhere on or adjacent to a public place and prohibit the owners or occupiers of real property from allowing property to become or remain unsightly, and require the owners or occupiers of real property, or their agents, to remove from it unsightly accumulations of filth, discarded materials, rubbish or graffiti and require the owners or occupiers of real property, or their agents, to clear the property of brush, trees, noxious weeds or other growths,

AND WHEREAS section 725 (2)(a) and (b) of the *Act* provides that the Council may provide, by bylaw, that if a person fails to comply with the requirement, under subsection (1) may provide that the municipality, by its employees or other persons, at reasonable times and in a reasonable manner, may enter on the property and effect the compliance at the expense of the person who has failed to comply and that the costs for doing so, if unpaid on or before December 31 in the year that the compliance was effected, the costs are to be added to and form part of the taxes payable on the property as taxes in arrears;

AND WHEREAS the Council deems it advisable and expedient and in the best interest of all real property owners in the District of Invermere that such powers be exercised and that the necessary and sufficient regulatory measure be enacted;

NOW THEREFORE, the Council of the District of Invermere, in open meeting assembled, enacts as follows:

1. This Bylaw may be cited as "Nuisances, Rubbish and Unsightly Property and Premises Bylaw No. 948, 1998".

2. This Bylaw shall apply for all purposes to real property within the municipality.

DEFINITIONS

3. In this Bylaw:

"**accumulation**" means and includes a collection, mass or pile existing at the time of inspection;
"**Bylaw Enforcement Officer** " means the Bylaw Enforcement Officer or his designate appointed from time to time by resolution of the Council to administer and enforce this Bylaw;
"**Council**" means the Council of the District of Invermere;
"**dangerous structure**" means:

(a) a building, fence, retaining wall, sidewalk, scaffolding, structure or other erection of any kind, or
(b) an earth excavation in or on any real property or on a highway,

that is in an unsafe condition and/or is a danger to the public;

"**fence**" means a tight board structure, constructed with dimension lumber, painted or stained a natural earth colour and constructed to a design approved by the Bylaw Enforcement Officer;

"**highway**" includes a street, road, lane, bridge, viaduct and any other way open to public use, but does not include a private right of way on private property;

"**municipality**" means the District of Invermere;

"**nuisance**" includes the common dictionary meaning and as used in the *Municipal Act* and includes a dangerous structure;

"**rubbish**" means: all garbage, trash, waste materials, including containers, packages, bottles, cans or parts thereof or any abandoned articles, products or goods of manufacture and without limiting the generality of the foregoing, includes all motor vehicles no longer in roadworthy condition and any parts thereof, which are in a state of disrepair, wrecked or being dismantled for salvage or which are not licensed for the current year;

"**unsightly property**" includes real property that is in an unsightly state, and includes, but is not limited to, real property that contains:

(a) the storage or accumulation of any rubbish that can be seen from a highway;

(b) the storage of building or construction materials, where construction is not taking place, except where such materials cannot be seen from a highway;

"**watercourse**" means a drain, ditch, pond, creek, lake, river or accumulation of surface water on or passing through real property.

INTERPRETATION

4. In this Bylaw "unsightly" includes but is not limited to:

(a) the accumulation or storage of any building material, whether new or used, on any site or premises other than a building material storage yard, when the owner or occupier of the premises is not in possession of a valid municipal building permit other than that required for the normal maintenance and operation of a commercial facility.

(b) the storage or accumulation of any goods or merchandise which is offered or intended to be offered for sale on any site used as a residential premises other than what is required for use in a home occupation.

(c) the storage, collection or accumulation of all or part of any automobile wreck or all or part of any motor vehicle which is not:

(i) validly registered and licensed in accordance with the *Motor Vehicle Act* R.S.B.C. 1979, c. 288; or

(ii) capable of motivation under its own power;

(d) the storage of solid fuels, including wood, coke or coal other than what is required for personal use;

(e) the use of any site used for residential premises for the storage, repair, cleaning, maintenance, collection or servicing of mechanical equipment including bulldozers, graders, backhoes or other similar heavy construction equipment; or

(f) the collection or accumulation of rubbish or garbage of any kind including but not limited to ashes, dead animals, paper, cardboard, tin cans, leaves, wood, bedding, crockery, glass, bags and appliances.

(g) the placing of graffiti on walls, fences or elsewhere on or adjacent to a public place. Graffiti being the writing, drawing, painting etc. of words or pictures that for the purposes of this bylaw are not used as advertising on an appropriate sign or premises for a business or enterprise in conformance with the sign regulations of the municipality.

REGULATIONS

5. (1) All persons are prohibited from discarding, dumping or throwing rubbish on any real property or in any watercourse whether it be on public or private property except in a designated refuse disposal area under permit from the Waste Management Branch, Ministry of Environment.

(2) No person, owner or occupier of real property shall allow the real property to become or remain unsightly property, including but not limited to, by the accumulation of any rubbish on said real property.

(3) All persons are prohibited from causing, creating or permitting any nuisance to occur or to continue from or on any real property, watercourse or highway with the municipality;

(4) No person, owner or occupier of real property shall allow any building, structure or erection of any kind, or watercourse, or other matter or thing, whether in or on private land or a highway, or in or about a building or structure, to become or remain a nuisance.

(5) Owners or occupiers of real property within the municipality are required, when said real property is unsightly property or has a nuisance located on or in said real property, to remove all rubbish therefrom or to remove or correct the nuisance;

(6) The Council may require:
(a) the owners of occupiers of real property, or
(b) the agents of owners or occupiers of real property;
who have allowed rubbish of any kind to accumulate in or on the real property, to construct a fence, with the express purpose that rubbish may be stored behind the fence and not be visible from a highway.

ENFORCEMENT

6. (1) The Bylaw Enforcement Officer may at any reasonable time, enter upon any real property within the municipality for the purpose of inspecting said real property in order to ascertain whether or not the provisions of this Bylaw are being complied with.

(2) Inspections of real property under this Bylaw by the Bylaw Enforcement Officer may be initiated:
(a) by the request of the Council; or
(b) by complaints received by the Bylaw Enforcement Officer pursuant to subsection (3).

(3) Complaints regarding any violation of the provisions of this Bylaw must be made, in writing, to the Bylaw Enforcement Officer who may, but is not obliged to, inspect the real property which is the subject of the complaint.

(4) If the Bylaw Enforcement Officer determines that any real property within the municipality is unsightly property or has a nuisance on or in it, he shall advise the owner, or occupier of the real property to:

(a) remove all rubbish from said real property or to correct or remove any nuisances thereon within 30 days of the giving of notice; or

(b) to erect a fence to the satisfaction of the Bylaw Enforcement Officer, so that the unsightly property is not visible from any highway;

(5) Any written notice to be given by the Bylaw Enforcement Officer under the provisions of this Bylaw shall be deemed to be validly given if:

(a) delivered personally; or

(b) mailed to the owner or occupier of the real property in question by return registered mail, and addressed to the said owner or occupier, in care of the ordinary postal address for such real property.

(6) In the event the owner or occupier of real property cannot be contacted via return registered mail at the ordinary postal address for such real property, notice may be given to the owner or occupier of the real property by posting a copy of the order upon a building on the property or, in the case of vacant land, in a location visible from an adjacent highway.

(7) If, after the expiry of 30 days from the date of the notice given pursuant to this Bylaw, the unsightly property or nuisance has not been:

(a) corrected to the satisfaction of the Bylaw Enforcement Officer; or

(b) removed to the satisfaction of the Bylaw Enforcement Officer,

by the owner or occupier of the real property in question, it shall be lawful for the municipality by its workmen and others, to enter upon said real property and effect the correction or removal of the condition by any means possible under the existing circumstances at the expense of the owner or occupier so defaulting, and the charges incurred by the municipality for so doing, if unpaid on the 31st day of December in any year, shall be added to and form part of the taxes payable in respect of such real property as taxes in arrear.

PENALTY

7. (1) Every owner or occupier of real property who violates any provision of this Bylaw, who refuses or neglects to observe or perform any duty or obligation created or imposed by this Bylaw, is guilty of an offence against this Bylaw and each day's continuance of the violation, refusal or neglect, constitutes a new and distinct offence.

(2) Every owner or occupier of real property who, without lawful excuse, contravenes this Bylaw by wilfully doing any act which this Bylaw forbids, or omitting to do any act which the Bylaw requires to be done, is guilty of an offence and is liable on summary conviction, to a fine of not less than $100 and not more than $1,000 for the first offence and for each subsequent offence to a fine of not less than $200 and not more than $2,000, together with all court costs, or in default thereof, to imprisonment for a period not exceeding 6 months.

(3) The penalties imposed under this section shall be in addition to and not in substitution for any other penalty or remedy imposed by this Bylaw.

District of Invermere
Nuisances, Rubbish and Unsightly Property and Premises Bylaw No. 948, 1998

Read a First Time the 1st day of December, 1998
Read a Second Time the 1st day of December, 1998
Read a Third Time the 1st day of December, 1998

ADOPTED the 12th day of January, 1999

MAYOR

CLERK

Certified a true copy of Bylaw No. 948
this day _____ of _____, 1998

_____
Clerk