

THE CORPORATION OF THE TOWNSHIP OF SPALLUMCHEEN

BYLAW NO. 2073 2022

A Bylaw to regulate, prohibit, and impose requirements in relation to the abatement of nuisances, and to provide for recovery of the costs of nuisance abatement where undertaken by the Township

WHEREAS the Township of Spallumcheen Council has authority under Section 8(3)(h) and 64 of the *Community Charter* to regulate, prohibit and impose requirements in relation to nuisances;

AND WHEREAS pursuant to section 17 of the *Community Charter*, Council has the authority to direct that if a person subject to a requirement fails to take the required action, the Township may fulfill the requirement at the expense of the person and recover the costs incurred from that person as a debt;

AND WHEREAS pursuant to section 194 of the *Community Charter*, Council may, by bylaw, impose fees payable in respect of municipal services and the exercise of regulatory authority.

AND WHEREAS it is desirable for the protection and enhancement of the well-being of the community to regulate and require the abatement of nuisances in the Township;

AND WHEREAS it is undesirable for the costs incurred in the abatement of nuisance on private property to be paid by the public;

NOW THEREFORE, the Council of the Township of Spallumcheen, in open meeting assembled, enacts as follows:

1. CITATION

1.1 This bylaw may be cited as the "Township of Spallumcheen Nuisance Abatement and Cost Recovery Bylaw 2073, 2022."

2. INTERPRETATION

2.1. DEFINITIONS

"Chief Administrative Officer" means the person holding that position with the Township or their designate;

"Council" means the municipal Council of the Township of Spallumcheen;

"Fire Chief" means the person duly appointed as such from time to time and includes any person appointed or designated by the Fire Chief to act on their behalf;

"land" means any lot, block or other area in which land is held or into which it is subdivided and includes any improvement on a parcel but excludes streets, lanes, and municipal parks and public spaces;

"nuisance" means any activity which substantially and unreasonably interferes with a person's use and enjoyment of a highway, park or other public area or of land a person owns or occupies, or which causes injury to the health, comfort or convenience of an occupier of land, and without limiting the generality of the foregoing, includes an activity such as a noisy party, a group of people making noise, loud music, car racing, revving engines, yelling, shouting, screaming, fighting, littering, trespassing, illuminations, vibration, odour, accumulation of water or other liquids on a property, irritations, annoyances, unsanitary conditions on property, undertaking of illegal activity or other objectionable situations that in law are a nuisance;

"occupier" means any person who occupies land, or who is qualified to maintain an action for trespass in respect of the land, or who is in possession of the land under a lease, licence, agreement for sale or other agreement with the owner of the land;

"owner" means any person in relation to the land who is the registered owner of an estate in fee simple, the tenant for life under a registered life estate, or the registered holder of the last registered agreement for sale, and in the case of provincial Crown or Township owned lands, means the occupier of the land;

"person" includes any company, corporation, owner, partnership, firm, association, society or individual;

"RCMP" means the Royal Canadian Mounted Police, when providing municipal policing services within the Township.

"Township" means the corporation of the Township of Spallumcheen.

3. PROHIBITION

3.1. Causing a Nuisance Prohibited

- a) No person shall cause a nuisance on land he or she owns or occupies.
- b) No person shall permit land he or she owns or occupies to be used in a manner to cause a nuisance.

4. NUISANCE ABATEMENT

4.1. Requirement to Abate Nuisance - A person who causes a nuisance or permits land he or she owns or occupies to be used so as to cause a nuisance shall abate or cause to be abated the activity which causes the nuisance.

4.2. Order for Nuisance Abatement

- a) If a person fails to abate or fails to cause to be abated an activity that causes a nuisance, Council may issue a written order directing that the owner or occupier abate or cause to be abated the nuisance.
- b) Before Council makes an order under section 4.2(a), the owner or occupier must be provided an opportunity to be heard by Council in respect of the matter.

4.3. Township May Abate Nuisance - If an owner or occupier who is subject to an order under section 4.2(a) fails to abate or cause to be abated the activity causing the nuisance, the Township, by its employees, contractors and agents, and by the RCMP, may abate or cause to be abated the activity which causes the nuisance in accordance with section 17 of the *Community Charter*.

4.4. Entry on Property

- a) In accordance with section 16 of the *Community Charter*, the following persons are authorized to enter onto property to inspect and determine whether the requirements of this Bylaw are being met, and to carry out an action authorized under section 4.3 of this Bylaw:
- (i) a member of the RCMP;
 - (ii) the Chief Administrative Officer;
 - (iii) Manager of Public Works;
 - (iv) Public Works Foreman;
 - (v) a Bylaw Enforcement Officer;
 - (vi) an Animal Control Officer,
 - (vii) a Building Inspector;
 - (viii) the Fire Chief;
 - (ix) the Deputy Fire Chief;
 - (x) the Assistant Fire Chief;
 - (xi) a Fire Inspector; and
 - (xii) a Fire Officer or Fire Fighter.
- b) For the purposes of carrying out an action authorized under section 4.3 of this Bylaw, Council delegates to the Chief Administrative Officer the power to authorize a person, as the Township's contractor, to enter onto property in accordance with section 16 of the *Community Charter*.

5. COST RECOVERY

5.1. Cost Imposition - The Township may impose the costs of abating a nuisance in accordance with section 4.3 of this Bylaw on one or more of the following:

- a) a person causing the nuisance;
- b) the occupier of land from which the nuisance emanates; and
- c) the owner of land from which the nuisance emanates.

5.2. Cost Recovery - The Township may recover the costs imposed under section 5.1 in accordance with:

- a) section 231 of the *Community Charter*, as a debt due and recoverable in a court of competent jurisdiction;

- b) section 258 of the *Community Charter*, in the same manner as property taxes; or
- c) in any other manner authorized by law.

5.3. Costs Recoverable - The costs recoverable by the Township for nuisance abatement under this Bylaw shall be determined and calculated in accordance with the current Township of Spallumcheen Fees and Charges bylaw as amended from time to time.

5.4. Offence - A person who contravenes, violates, or fails to comply with any provision of this Bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this Bylaw, or who fails to do anything required by this Bylaw, commits an offence and shall be liable, upon conviction, to a fine of not more than \$10,000.00 (ten thousand dollars) and not less than \$200.00 (two hundred dollars), together with the cost of prosecution and any other penalty or order imposed pursuant to the *Community Charter* or the Offence Act (British Columbia.)

5.5. Continuing Offence - Each day that an offence against this Bylaw continues or exists shall be deemed to be a separate and distinct offence.

6. SEVERABILITY

6.1. If any provision contained in the bylaw is found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions contained herein shall not be, in any way, affected or impaired thereby to the extent that the purpose of the bylaw may be fulfilled in the absence of the impugned provision or provisions of the bylaw.

Read a FIRST time this 4 day of April, 2022

Read a SECOND time this 4 day of April, 2022

Read a THIRD time this 6 day of June, 2022

ADOPTED this 20 day of June, 2022.

Certified Correct:

‘ORIGINAL SIGNED’

Cindy Webb
Corporate Officer

‘ORIGINALSIGNED’

Christine Fraser
Mayor