



CORPORATION OF THE DISTRICT OF TOFINO

Unsightly Premises Bylaw No. 701, 1995

Consolidated for Convenience Only

This is a consolidated version of the parent bylaw that incorporates changes made pursuant to the following amendment bylaws:

Amendment Bylaw	Effective Date
Bylaw No. 1108, 2010	February 9, 2010

This consolidation is for convenience and reference purposes only. Persons making use of this consolidated version of Bylaw No. 701 are advised that it is not a legal document. For the purposes of interpreting and applying the law, the original Bylaw No. 701 and all amending bylaws must be consulted.

Bylaw numbers appearing in the margin of this consolidated version refer to the applicable amendment bylaw.

DISTRICT OF TOFINO
UNSIGHTLY PREMISES BY-LAW
BY-LAW NO. 701, 1995
A By-law to Prevent Unsightly Premises.

Whereas the Council of the District of Tofino may by by-law for the purpose of preventing unsightliness on real property:

- (a) Prohibit persons from placing graffiti on walls, fences or elsewhere on or adjacent to a public place;
- (b) Prohibit the owners or occupiers of real property from allowing their property to become or remain unsightly;
- (c) 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
- (d) Require the owners or occupiers of real property, or their agents, to remove from it unsightly accumulations of filthy discarded materials, rubbish or graffiti.

No Therefore the Council of the District of Tofino, in the Province of British Columbia, in an open meeting assembled **Hereby Enacts as Follows:**

Title

- 1. This By-law shall be known and cited for all purposes as the “**District of Tofino Unsightly Premises By-law No. 701, 1995**”.

Definitions

- 2. In this By-law, unless the context otherwise requires:

Bylaw Enforcement Officer – means that employee appointed by Council to enforce the regulations of this by-law.

Council – means the Council of the District of Tofino.

District – means the Corporation of the District of Tofino

Graffiti – means writing or pictorial representation scratched, scribbled, painted or otherwise applied to walls, roofs, fences, or windows, but not including permitted signs as defined in the District of Tofino Sign By-law.

Littering – means the discharge of litter and waste as outlined in the **Litter Act**.

Occupier – means a person

- (a) Who is qualified to maintain an action for trespass;
- (b) In possession of Crown land under a homestead entry or preemption record;
- (c) In possession of Crown land or land owned by a municipality under a lease, licence, agreement for sale, accepted application to purchase, easement, or other record from the Crown or municipality, or who simply occupies the land.

Owner – in respect of real property, means the registered owner of an estate in fee simple, and includes

- (a) The tenant for life under a registered life estate;
- (b) The registered holder of the last registered agreement for sale;

The holder or occupier of land held in the manner mentioned in Sections 409 and 410 of the Municipal Act;

- (c) An Indian who is an owner under the letters patent of a municipality, incorporated under Section 10

Real Property – means land, with or without improvements so affixed to the land as to make them in fact and law a part of it.

Refuse – means items rejected as worthless; waste.

Rubbish – means waste material, debris, refuse, litter, derelict automobile bodies, worthless material or articles; trash.

General Conditions

3. No person shall place graffiti on walls, fences or elsewhere on or adjacent to a public place.
4. Neither the owner or occupier of real property shall,
 - (a) Allow the real property to become or remain unsightly; or
 - (b) Cause or permit water, rubbish or noxious, offensive or unwholesome matter to collect or accumulate on or around their premises, or from depositing or throwing bottles, broken glass or other rubbish in any open place; and
5. The owner or occupier of real property, or their agents, shall remove from it unsightly accumulations of filth, discarded materials, rubbish or graffiti.

Enforcement

6. Where an owner or occupier has failed to perform the obligations pursuant to Sections 3, 4, & 5 set out above, the Bylaw Enforcement Officer may serve on such owner or occupier an Order to Comply which requires the person to remedy the nuisance within 14 days of service of such Order to Comply, except as permitted in Section 7.
7. If in the opinion of the Bylaw Enforcement Officer, special circumstances require, he may set a time to comply, other than 14 days, that is reasonable in the circumstances.

Order to Comply

8. The Bylaw Enforcement Officer shall serve the Order to Comply on the owner and the occupier of the real property either personally or by double registered mail. When an Order to Comply is not personally served it is deemed to have been served on the third day after mailing or posting.
9. Every owner or occupier of real property, or their agents, shall upon receipt of the written Order to Comply notice to that effect and within the time limited by such notice, remove or cause to be removed from such property unsightly accumulations of filth, discarded materials, rubbish or graffiti.
10. If an owner or the occupier of real property fails to remove the unsightly accumulations of filth, discarded materials, rubbish or graffiti, the municipality, by its employees or other persons, at reasonable times and in a reasonable manner, may enter on the property and effect the removal at the expense of the person who has failed to comply.
11. Where the owner or occupier at whose expense removal is carried out does not pay the costs of the removal on or before December 31 in the year that the removal was done, the costs shall be added to and form part of the taxes payable on the property as taxes in arrear.

Bylaw Enforcement Officer

12. The Bylaw Enforcement Officer is authorized and empowered to inspect, compel, and require that all the regulations and provisions prescribed in this by-law are carried out.
13. For the purposes of this by-law, the Bylaw Enforcement Officer means any of the following:

Clerk Administrator of the District of Tofino
Bylaw Enforcement Officer of the District of Tofino
Superintendent of Public Works of the District of Tofino

Or their duly appointed designate.

14. No person shall unreasonably obstruct or prevent a Bylaw Enforcement Officer from carrying out his duties as prescribed in this by-law.
15. A person upon whom an Order to Comply has been served may, by giving notice in writing to the Clerk Administrator of the municipality at least 72 hours prior to the expiry of the time given in the Order to Comply to remedy the nuisance, appeal to the Council who shall hear and determine the appeal by confirming, amending or rescinding the Order to comply
16. If the Order to Comply is confirmed, all works necessary shall be carried out with 72 hours. If the Order to Comply is amended the amendment shall indicate a new date for compliance.

Severance

17. If any portion of this by-law is declared ultra vires by the Court of Competent Jurisdiction, that portion shall be deemed to be severed from the by-law to the intent that the remainder of the by-law shall continue in full force and effect.

Offenses

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18. Every person who contravenes any provision of this bylaw, or who suffers or permits any act or thing to be done in contravention of this bylaw, or who refuses, omits, or neglects to fulfil, observe, carry out, or perform a duty or obligation imposed by this bylaw, shall be deemed to have committed an offence against this bylaw and:
 - (a) shall be liable to a fine set out in the District of Tofino Municipal Ticket Information System Bylaw No. 1088, 2009 as amended from time to time; or
 - (b) shall be liable to a penalty set out in the District of Tofino Bylaw Notice Enforcement and Dispute Adjudication System Bylaw No. 1107, 2009 as amended from time to time; or
 - (c) shall be liable, upon summary conviction, to the penalties provided under the Offence Act and amendments thereto; or
 - (d) any combination of 18 a), b), and c).

Repeal

19. “Nuisance and Unsightly Premises By-law No. 177 – 1971” is hereby repealed.

Read a first time this 23rd day of May, 1995.

Read a second time this 26th day of June, 1995.

Read a third time this 26^{trh} day of June, 1995.

Adopted by Council this 24th day of July, 1995.

Frank Van Eynde, Mayor

Shelly Thibodeau, Clerk Administrator

I hereby certify the foregoing to be a true and correct copy of By-law No. 701, 1995 cited as the “District of Tofino Unsightly Premises By-Law No. 701, 1995”, as adopted by Council this 24th day of July, 1995.

Shelly Thibodeau, Clerk Administrator

ORDER TO COMPLY

TO:

RE: LEGAL DESCRIPTION _____

TAKE NOTICE THAT pursuant to the “District of Tofino Unsightly Premises By-law No. 701, 1995” the Council of the District of Tofino has received a written recommendation from the Bylaw Enforcement Officer, advising that the property legally described above is in violation of the District of Tofino Unsightly Premises By-law;

AND THAT said property has become unsightly with the accumulation of filth, discarded materials, rubbish or graffiti.

YOU ARE HEREBY ORDERED to bring the condition of this property into conformity with the bylaw no later than: _____

If an owner or the occupier of real property fails to remove the unsightly accumulations of filth, discarded materials, rubbish or graffiti, the municipality, by its employees or other persons, at reasonable times and in a reasonable manner, may enter on the property and effect the removal at the expense of the person who has failed to comply.

Where the owner or at whose expense removal is carried out does not pay the costs of the removal on or before December 31 in the year that the removal was done, the costs shall be added to and form part of the taxes payable on the property as taxes in area.

Appeal

A person upon whom an Order to Comply has been served may, by giving notice in writing to the Clerk Administrator of the municipality at least 72 hours prior to the expiry of the time given in the Order to Comply to remedy the nuisance, appeal to the Council who shall hear and determine the appeal by confirming, amending or rescinding the Order to comply.

This Order to Comply notice has been (hand delivered) (sent by Double Registered Mail) this _____ day of _____, _____.

Clerk Administrator for the District of Tofino