

# CORPORATION OF THE CITY OF FERNIE

## COMMUNITY STANDARDS BYLAW 2456, 2022

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*A Bylaw to establish Community Standards on Privately owned Properties*

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WHEREAS the *Community Charter [SBC 2003]* provides that a Council may, by bylaw

- (i) prohibit persons from causing or permitting refuse, garbage or other material that is noxious, offensive or unwholesome to collect or accumulate on or around Premises;
- (ii) regulate the accumulation of water on property;
- (iii) prevent unsanitary conditions on property;
- (iv) regulate trees, weeds or other growths that council considers should be removed, cut down or trimmed;
- (v) prohibit or regulate graffiti and unsightly conditions on property

The Council of the Corporation of the City of Fernie, in an open meeting, therefore, enacts as follows:

### **1. TITLE**

1. This Bylaw may be cited as the "Community Standards Bylaw 2456, 2022"

### **2. DEFINITIONS**

1. In this Bylaw:

"Boulevard" means the area, other than the sidewalk between the curb lines, the lateral lines or the shoulder of a roadway and the adjacent property.

“Council” means the Council of the Corporation of the City of Fernie

“City” means the Corporation of the City of Fernie or its geographic boundaries.

“Derelict Vehicle” means a motor vehicle not stored in a garage or other completely enclosed structure.

- a) Is not capable of being moved under its own power or
- b) Is reduced to parts, frames, or bodies of a motor vehicle or
- c) Is without a valid license plate and subsisting insurance for the current year

“Dilapidated” means in a state of disrepair or ruin as a result of age, neglect or disuse.

“Graffiti” means any drawing, printing, or writing that is scratched, sprayed, painted or written on a wall or other exterior or outdoor surface that is visible from adjacent Land or Highways, but does not include a sign, painting, mural or structure for which a permit or permission has been issued by the City.

“Grasses” means any plant of the family Gramineae, having jointed stems, sheathing leaves, and seedlike grains.

“Highway” means a street, road, lane, bridge, viaduct, and any other way open to public use, and includes a roadway, boulevard and sidewalk.

“Land” means any lot, block or other area in which land is held or into which it is subdivided including any right, title, or estate in it of any tenure with all Structures, unless there are words to exclude Structures, or to restrict the meaning.

“Occupier” means a tenant, licensee or other person who occupies or is in physical possession of a premise or premises or who has control over who is allowed to enter a premise or premises

“Overgrown” means, with regard to grasses, grasses that are more than 20 cm in height

“Owner” means in respect of a premise or premises:

- a) The person registered as the owner in fee simple of the land or improvement or
- b) In the case of the absence or incapacity of the person registered as the owner of the land or improvement, a trustee, an executor, a guardian, an agent, a

mortgagee in possession, or other person having the care and control of the Land or Structure

"Owner's address" means either of the following"

- a) The address given for the owner on the certificate of title for the premise or premises
- b) The most recent contact address provided by the owner to the City

"Person" includes a corporation, partnership, or party and the personal or other legal representatives of a person to whom the context can apply according to law

"Premise" or "Premises" means an area of Land with or without Structures

"Refuse" includes but not limited to:

- a) Liquid and solid waste, discarded and disused materials, rubbish and litter;
- b) Refrigerators, washing machines, televisions, dryers, and other household appliances and their parts;
- c) Combustibles such as paper, cardboard, fabric, and plastic;
- d) Indoor furniture, household goods, and indoor carpets;
- e) Construction waste;
- f) Unlicensed, unused, or stripped vehicles, trailers, boats, vessels, machinery, mechanical parts and metal parts;
- g) Grass cuttings, shrubbery, tree pruning, unmarketable food and garden waste;
- h) Any of the above stored in garbage bags

located outside of a Structure.

"Structure" means anything constructed or erected, the use of which requires location on or under the ground or water or attached to something having location on or under the ground or water, but does not include walls, fences or other similar matters that do not create or establish any form of enclosed area.

"Unsightly" means Properties that display any one or more of the following characteristics to such an extent that as a whole it appears unkempt, unmaintained, dilapidated, or in disrepair including but not limited to, on any portion of Land outside a structure, or not otherwise screened from public view:

- a) The accumulation of Refuse, machinery, equipment, derelict vehicle(s), or automotive parts;
- b) Fencing materials that are broken, rotting, contain holes or cracks, or rusted, or paint has substantially peeled;
- c) Trees or shrubs that are dead;

- d) A Structure that contains holes, breaks, rot, or surfaces that are crumbling or cracking, or substantially rusted or the paint has substantially peeled; or
- e) windows in a Structure that are broken;
- f) Construction materials or Construction waste, unless the Owner or Occupier is holding a valid building permit for the Property or is a Premise or Premises containing a Licensed Business that principally sells building materials.

"Weed" means a noxious weed as defined by the *Weed Control Regulation* B.C. Reg. 143/2011 enacted pursuant to the *Weed Control Act*, RSBC 1996, c. 487 as may be amended from time to time.

### 3. PROHIBITIONS

1. No person shall plant, place or leave any one of the following or combination thereof on a highway, park, public space or outside or on any Public Land within the City:
  - a) Refuse, unless placed in an appropriate receptacle;
  - b) Derelict vehicle(s);
  - c) Weeds.
  
2. No Owner or Occupier of a premise or premises shall cause, contain, or allow the following or combination thereof on Land
  - a) to become or remain Unsightly;
  - b) accumulation of Weeds, or overgrown grasses;
  - c) Refuse;
  - d) Chattels displayed for sale outside of a Structure exceeding 14 days if the Land is zoning Residential pursuant to Zoning Bylaw 1750 as amended from time to time;
  - e) Graffiti;
  - f) Derelict vehicle(s).
  
3. No person shall obstruct a Bylaw Officer in the performance of his duties

#### **4. EXCEPTIONS**

1. The following exceptions apply to this Bylaw:
  - a) Section 3 Paragraph (1)(a) shall not apply to yard or garden waste, grass clippings, tree and hedge cuttings during those dates and times designated by the City for Spring Clean-up
  - b) Section 3 Paragraph (2)(d) does not apply to a garage sale if the garage sale has a duration of no more than 2 days, and occurs a maximum of 2 times per calendar month
  - c) Section 3 Paragraph (2)(f) does not apply to a premise or premises containing a licensed salvage yard or automobile dealership

#### **5. RIGHT OF ENTRY**

1. Subject to the provisions of Section 16 of the Community Charter, a Bylaw Officer may enter into or upon any premise or premises within the City for the following purposes:
  - a) To inspect and determine whether all regulations, prohibitions, and requirements imposed under or pursuant to this Bylaw are being met;
  - b) To take action on default of a Remedial Action Order under this Bylaw.

#### **6. REMEDIAL ACTION REQUIREMENT (ORDER)**

1. If a Bylaw Officer determines that the regulations, prohibitions, or requirements of this Bylaw are not being met with respect to Land or Premises, the Bylaw Officer may, by written notice, advise the owner or occupier of the Land or Premises of the contravention and request compliance with this Bylaw be achieved within the time period stated on such notice.
2. If after receiving a written notice from a Bylaw Officer under Section 6.1 of this Bylaw, the owner or occupier fails to remedy in whole or in part a contravention occurring on the Land or Premises, the Bylaw Officer may request that Council impose a Remedial Action Requirement pursuant to Ss. 72, 73 or 74 of the *Community Charter*, S.B.C. 2003, c. 26.
3. Notice to affected persons of a Remedial Action Requirement shall be in accordance with Ss. 77 of *Community Charter*, S.B.C. 2003, as amended from time to time.

## **7. RECONSIDERATION (APPEAL)**

1. Reconsideration of a Remedial Action Requirement shall be in accordance with Ss. 78 of *Community Charter*, S.B.C. 2003, as amended from time to time.

## **8. NON-COMPLIANCE**

1. If the Owner or Occupier fails to comply with a Remedial Action Requirement, in whole or in part, the City, may, by its employees, contractors, and agents, enter onto the premise or premises, and take action in accordance with Section 17 of the Community Charter, and fulfill the requirements of the Remedial Action Requirement, including the cost of such actions. If such costs remain unpaid by December 31 of the year in which they are owing, the costs may be recovered as taxes in arrears in accordance with Division 14 of the Community Charter.
2. If the City's action on default includes the removal of one or more items from the premise or premises, given the nature, condition, and market value of each item may sell the item or thing in accordance with S. 80 of the Community Charter, S.B.C. 2003 or otherwise dispose of the item or thing in a commercially reasonable manner.

## **9. OFFENCES AND PENALTIES**

1. Any person who contravenes, violates, or fails to comply with any provision of this Bylaw, or who suffers or permits an act or thing to be done in contravention or violation of this Bylaw, or fails to do anything required by this Bylaw, commits an offence, and shall be liable upon conviction:
  - a) to a fine of not more than Ten Thousand (\$10,000.00) dollars or
  - b) a fine imposed under the Municipal Ticket Information Bylaw as amended from time to time
2. In addition to any fine imposed, City may seek reimbursement for the cost of any prosecution, and seek any other penalty or order be imposed pursuant to the Community Charter or Offence Act as amended from time to time.
3. If an offence continues for more than one day, each day that the offence continues constitutes a separate and distinct offence.
4. Nothing in this Bylaw limits the City from utilizing any other remedy that is otherwise available to the City by law.

**10. ENFORCEMENT**

1. The City designates this Bylaw as a Bylaw that may be enforced by Bylaw Enforcement Officers, the Chief Administrative Officer, or their delegates, and R.C.M.P. Officers by means of a ticket in the form prescribed for that purpose by the Community Charter.
2. Any person designated as a Bylaw Enforcement Officer pursuant to the Municipal Ticket Information Bylaw as amended from time to time is hereby authorized and empowered to enforce the provisions of this Bylaw.

**11. SEVERABILITY**

1. If any part, section, sentence, clause, phrase, or word of this Bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder which shall continue in full force and effect and be construed as if the Bylaw had been adopted without the invalid portion.

**12. REPEAL**

1. The "Unsightly Property Prevention Bylaw No. 1587 Consolidated Version" is hereby repealed


Read for the first time this 14<sup>th</sup> day of February, 2022

Read for the second time this 14<sup>th</sup> day of February, 2022

Read for the third time this 14<sup>th</sup> day of March, 2022

Adopted this 28<sup>th</sup> day of MARCH 2022

  
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Mayor

  
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Corporate Administrative Officer