

VILLAGE OF CANAL FLATS

BYLAW NO. 179, 2016

Being a Bylaw to regulate unsightly premises within the Village of Canal Flats

WHEREAS Part 3, Division 10, Section 64 of the Community Charter provides that Council may exercise authority in relation to nuisances, disturbances and other objectionable situations;

AND WHEREAS the Council for the Village of Canal Flats deems it expedient to provide for regulations and prohibitions regarding such matters as: unsanitary conditions on a property, the accumulation of water, refuse, garbage or other material that is noxious, offensive or unwholesome; the accumulations of weeds or other growths that Council considers should be removed; and, graffiti and unsightly conditions on a property;

AND WHEREAS Council may by bylaw, for the purpose of preventing and remedying unsightliness on real property, 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, in relations to the protection and enhancement of the well-being of its community;

AND WHEREAS Council may provide, by bylaw, that if a person fails to comply with the requirement, 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 31st 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;

NOW THEREFORE the Council of the Village of Canal Flats, in open meeting assembled, ENACTS AS FOLLOWS:

1. This Bylaw may be cited for all purposes as "Village of Canal Flats Unsightly Premise Bylaw No. 179, 2016".
2. DEFINITIONS In this bylaw:

"Accumulation" means and includes a collection, mass or pile existing at the time of inspection;

"Bylaw Enforcement Officer" means a person appointed by Council for the purpose of enforcement of any bylaws, and includes, the Chief Administrative Officer, the Director of Corporate Services, or a member of the Royal Canadian Mounted Police (RCMP),

"Container" means a dumpster, garbage or refuse bin, or other receptacle designed or intended to be used to hold rubbish, discarded materials, or debris.

"Council" means the Council of the municipality;

"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;

"Excessive Growth" means brush, grasses, weeds, or other growth, which is permitted to grow higher than 15 cm (5.9 inches);

"Filth, Discarded Materials or Rubbish" means any and all manner of garbage, trash, waste materials, including ashes, dead animals, paper, cardboard, containers, packages, bottles, cans, wood, furniture, glass, bags, appliances, or any other discarded or abandoned articles, products, or goods. Without limiting the generality of the foregoing, this definition includes all stripped automobiles, trucks, trailers, boats, vessels, all terrain vehicles, snowmobiles, machinery, mechanical or metal parts, which are in a state of disrepair, wrecked or being dismantled;

"Municipality" means the Village of Canal Flats;

"Occupier" means a person who is qualified to maintain an action for trespass or a person who simply occupies the land;

"Owner" means, in respect of real property,

- (a) the registered owner of an estate in fee simple,
- (b) the tenant for life under a registered life estate,
- (c) the registered holder of the last registered agreement for sale,
- (d) the holder or occupier of land held in the manner referred to in section 228 or section 229 of the Community Charter;

"Person" means any corporation, individual, partnership or party and the personal or other legal representative of a person, to whom the context can apply according to the law and also includes an owner, the agent of an owner, or the occupier of, or the holder of a purchaser's interest in an Agreement for Sale, of any real or personal property within the municipality;

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

"Recreation Vehicle" means any motor homes, recreational camping trailers, boats, ATV's, snowmobiles, and other similar items;

"Registered Owner" means the person registered in the land title office as entitled to the fee simple;

"Screening" means a fence or an evergreen hedge or combination thereof that obstructs certain views of the property which it encloses and is broken only by access drives, lanes and walkways. This term excludes open mesh or chain link style fences and vegetation used as a wind break;

"Trailer" means a wheeled vehicle that can be pulled by a car or truck and is equipped for carrying items and includes utility trailers, ATV trailers, snowmobile trailers, and other similar conveyances;

"Vacant property" means any real property, including a bare lot, construction site, building structure, or other improvement, that has remained unoccupied by its owner or occupant for a continuous period of more than 30 days or as a result of a fire or other act of God, has been unoccupied for any length of time.

"Vehicle" means a device in, on or by which a person or thing is or may be transported or drawn on a highway, but does not include a device designed to be moved by human power, a device used exclusively on stationary rails or tracks, mobile equipment or a motor assisted cycle;

3. UNSIGHTLY PREMISES

a) No owner or occupier of real property shall allow their property to become or remain unsightly as defined in Section 3 b) of this Bylaw without having adequate screening in place;

b) In this Bylaw "unsightly" includes but is not limited to:

- I. the accumulation of Filth, Discarded Materials or Rubbish of any kind;
- II. the accumulation of mechanical equipment, including bulldozers, graders, backhoes or other similar heavy equipment, or parts there of, where the property is not zoned for such use;
- III. the keeping or storage of materials of any sort that are strewn about the real property rather than stored in a neat and appropriate manner;
- IV. landscaping that is dead, excessive growth, broken or damaged, bushes or trees;
- V. poor quality of the condition of the appearance of a structure, or parts thereof, characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or any other evidence of physical decay, neglect or lack of maintenance, or
- VI. recreation vehicles or trailers, that are not parked in a neat and orderly fashion.

4. INSPECTION

a) A Bylaw Enforcement Officer is hereby authorized to enter, at all reasonable times, on any property to ascertain whether the requirements of this Bylaw are being met or the regulations contained in this Bylaw are being observed.

b) It is an offence for any person to interfere with, obstruct, or prevent the Bylaw Enforcement Officer from entering real property or premises for the purposes of enforcing the regulations contained in this bylaw.

5. OFFENCES

a) Every person who violates any of the provisions of this bylaw or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this bylaw, who neglects to do or refrains from doing anything required to be done by any of the provisions of this bylaw or who does any act which violates any of the provisions of this bylaw is guilty of an offence against this bylaw and liable to the penalties hereby imposed.

b) Each day that an offence continues shall constitute a separate offence against this Bylaw.

6. ENFORCEMENT

a) A Bylaw Enforcement Officer may deliver by registered mail or personally to the owner, occupier or agent of either of them, of real property or premises on the real property, notice in writing that the subject property or premises is in violation of this Bylaw and that the property or premises must be brought in to compliance before the expiry of thirty (30) days after the mailing of the notice.

b) In the event of failure to comply with the notice issued pursuant to Section 6 a) the matter will be brought forward for consideration by Council at a Council Meeting. The owner, occupier or agent of either of them, shall be provided at least ten (10) days written notice of the date when Council will be considering the matter.

c) Council may authorize agents or employees of the municipality to enter the real property or premises affected to effect the correction or removal of the condition at a time and in a manner of administrative convenience to the municipality at the expense of the owner or occupier so defaulting.

d) The cost of effecting correction or removal pursuant to Section 6 c) of this bylaw shall be due and payable by the owner in default immediately upon removal, and if such costs remain unpaid on December 31 in the year the removal was done, the costs shall be added to and form part of the taxes payable on the property as taxes in arrears.

e) Nothing in this section limits or prohibits the municipality from issuing a ticket for a violation of this bylaw where authorized to do so

7. PENALITIES

a) Any person who violates any provision of this Bylaw, allows or permits any act or thing to be done in violation of any provision of this Bylaw, or neglects to or refrains from doing anything required to be done by any provision of this Bylaw is guilty of an offence against this Bylaw and shall upon summary conviction thereof, be liable to a maximum penalty of two thousand dollars (\$2,000.00).

b) Each day a violation, contravention, or breach of this Bylaw continues shall constitute a separate and distinct offence.

c) Notwithstanding anything in this Bylaw, every person who violates any provision of this Bylaw may be served with a violation notice and, if after the time prescribed on the violation notice and it has not been disputed, shall be deemed to be guilty of the offence and shall pay, to the Village, the amount of the fine in full in accordance with the "Village of Canal Flats Municipal Ticket Information Bylaw No.134, 2012", and any amendments thereto.

8. SEVERABILITY

If any section, subsection, sentence, clause or phrase in this Bylaw is for any reason held to be invalid by a decision of any Court of competent jurisdiction, the invalid portion thereof shall be severed and the decision shall not affect the validity of the remaining portions of the Bylaw.

9. REPEAL

Village of Canal Flats Unsightly Premise Bylaw No. 132, 2011 and any amendments thereto, is hereby repealed

INTRODUCED AND READ a first time this 13th day of June, 2016

READ a second time this 13th day of June, 2016

READ a third time this 13th day of June, 2016

RECONSIDERED AND FINALLY ADOPTED this 27th day of June, 2016

DIRECTOR OF CORPORATE SERVICES

MAYOR

CERTIFIED a true and correct copy of
"Village of Canal Flats Unsightly Premises
Bylaw No. 179, 2016".

DIRECTOR OF CORPORATE SERVICES