

CITY OF PORT ALBERNI

BYLAW NO. 4712

A BYLAW TO REGULATE THE MAINTENANCE OF REAL PROPERTY AND RELATED MATTERS.

WHEREAS the City of Port Alberni wishes to promote a safe, comfortable and inviting community for all of its citizens, businesses and visitors;

AND WHEREAS it is recognized that a minority of property owners neglect to take reasonable steps to maintain their property and that poorly maintained property can adversely affect the well-being of a community;

AND WHEREAS pursuant to section 8(h) of the *Community Charter*, the Council of the City of Port Alberni may, by bylaw, regulate, prohibit, and impose requirements in relation to the protection and enhancement of the well-being of its community in relation to nuisances, disturbances, and other objectionable situations as defined in section 64 of the *Community Charter*.

NOW THEREFORE the Council of the City of Port Alberni in open meeting assembled enacts as follows:

1. TITLE

This Bylaw may be known and cited for all purposes as "**Property Maintenance Bylaw 2009, No. 4712**".

2. DEFINITIONS

In this Bylaw unless the context otherwise requires:

Enforcement Officer means a member of the Royal Canadian Mounted Police or a Bylaw Enforcement Officer for the City of Port Alberni, or his or her designate;

City means the City of Port Alberni;

Council means the elected Council of the City of Port Alberni;

Graffiti means any expressive depiction including pictures, words or symbols created by paint or other substance that forms a graphic image or any collection of things or substances that make an expressive form that is visible to the public and has not been sanctioned or approved in writing by City Council or staff.

Noxious weed includes but is not limited to Broom, Himalayan Balsam, Carpet Burweed, Wild Chervil, Daphne, Dodder, Gorse, Orange Hawkweed, Introduced Yellow Hawkweed, Giant Hogweed, Horsetail, Knapweed, Japanese Knotweed, Leafy Spurge, Garlic Mustard, Perennial Pepperweed, Poison Ivy, Purple Loosestrife, Ragwort, Scotch Broom, Thistle [Canada and Sow], Toadflax [Yellow and Dalmatian] and any plant on Schedule A, Part 1 – Provincial Weeds list under the *Weed Control Act*;

Person includes a natural person, any company, corporation, owner, partnership, firm, association, society, or party.

Property owner means the person or persons whose name is registered on the State of Title Certificate of a parcel;

Public Place includes every sidewalk, park, courtyard, square, walkway, parking lot, green space, undeveloped land, and any other area open to public use;

Real property means any parcel of land within the City of Port Alberni which is owned by a person other than the City of Port Alberni;

Refuse includes, but is not limited to; food waste; market waste; combustibles such as paper, cardboard, yard trimmings, leaves and brush, plastics, or leather; non combustibles such as metal, glass, crockery, dirt, ashes, and street sweepings; bulky wastes such as furniture, appliances, tires, or stumps; construction or trade waste; demolition waste; stripped or wrecked automobiles, trucks, trailers, boats, vessels, or machinery; parts or components of any of the aforementioned; structures, outbuildings, temporary buildings, tarps, fencing, furniture, ornaments, or ornamental structures that have fallen into an unsightly state of disrepair; and excludes an inhabitable dwelling house and contained and maintained residential compost;

Rubbish means refuse;

Unsightly means an untidy or otherwise non-aesthetic accumulation of filth, discarded materials or refuse on any real property, and includes graffiti.

3. **APPLICABILITY**

This bylaw shall apply to all real property within the City of Port Alberni.

4. **REGULATIONS**

- a. All real property shall be maintained by the property owner or his or her designate;
- b. No property owner shall cause or permit the accumulation of refuse on his or her property.

- c. No property owner shall cause or permit his or her property to be used for the storage of motor vehicles, boats or recreational vehicles, unlicensed or unused for a period of more than 12 months and including the parts and accessories associated with such vehicles, boats and equipment;
- d. No property owner shall permit the storage of construction materials including but not limited to wood, metal, piping, ducting, wire, cable, fabrics, roofing material, or concrete products for a period exceeding 12 months, unless a building permit has been issued and remains valid under provisions of Building Bylaw No. 4577, and only construction material intended for use on that property shall be stored on a property and must be stored in a side or back yard;
- e. No property owner shall cause or permit the growth of noxious weeds on his or her property;
- f. No property owner shall cause or permit grass, weeds or uncultivated brush to grow higher than 15 cm;
- g. No property owner shall cause or permit water to accumulate in any unnatural or manmade depression or container;
- h. No property owner shall permit a natural or artificial opening in the ground
- i. No property owner shall cause or permit a parcel to become infested by pest caterpillars and other noxious or destructive insects;
- j. No property owner shall cause or permit a parcel to become infested with rats;
- k. No property owner shall permit graffiti in a place visible from adjacent public or private property;
- l. No person shall deposit refuse in a public place or on real property without consent of the property owner, and such consent shall be the offender's responsibility to show.

5. EXEMPTIONS

- a. Section 4. c. does not apply to a vehicle or boat that is subject to an active restoration project or to vehicles or boats that are stored within an enclosed garage;
- b. Section 4. g. does not apply to natural wetlands, swamps, creeks, lakes, ponds, rivers, springs, or adequately maintained and chlorinated swimming pools or spas;

- c. Section 4. h. does not apply to temporary openings created during a construction process where industry safety guidelines have been observed or to a naturally formed ravine or gulch that is adequately marked or barricaded
- d. Section 4. k. does not apply to graffiti on privately owned property where the graffiti is permitted by the property owner and not visible from adjacent property.

6. AUTHORIZATION TO ENTER

An Enforcement Officer or an authorized designate, is hereby authorized to enter at all reasonable times upon any property within the City for the purpose of ascertaining whether the regulations under this bylaw are being observed or whether a requirement of the City is being met.

7. ENFORCEMENT

- a. Enforcement Officers are authorized to enforce this Bylaw.
- b. A property owner or his or her designate, upon receiving written Notice of a violation from an Enforcement Officer, shall comply with the provisions of this bylaw as identified in the Notice within the period prescribed in the Notice;
- c. The Notice issued by the Enforcement Officer must be signed by the Enforcement Officer, and include the date of inspection, the action required to bring the property into compliance, the date compliance is required, and instructions on how to appeal the order to Council;
- d. A Notice may be served in person, mailed, or left in the mail box of the property owner at the most recent address in the City's records;
- e. A time period prescribed in section 7. b. shall be reasonable and shall consider such things as quantity of work, weather and other circumstances deemed relevant by the Enforcement Officer and may be lengthened by an Enforcement Officer or the City Clerk upon request of the property owner where it is shown that the work cannot reasonably be performed within the prescribed time period or to do so would cause undue hardship;
- f. A person served with an order under section 7. b. may appeal all or part of the order in writing to the City Clerk prior to the compliance date set out in 7. c. and such an appeal will be heard by Council at the next conveniently available scheduled public meeting and upon hearing the appeal Council may uphold the Notice, deem all or part of the Notice invalid, or vary the conditions of the Notice;
- g. A decision made by Council in respect to Section 7. f. is final;

- h. Where an owner of real property fails to comply with a Notice the City may, by its employees or other persons, at a reasonable time and in a reasonable manner, enter on the property and effect the required work at the expense of the property owner;
- i. Where the person at whose expense the work is performed under section 7. h. does not pay the costs of the work on or before December 31 in the year that the work was done, the costs shall be added to and form part of the taxes payable on the property as taxes in arrears;
- j. The owner of the real property shall not use as an excuse for failing to comply with an Order issued under section 7. b. that the property is rented, leased or otherwise occupied by a person other than the owner of the property.

8. OBSTRUCTION

No person shall block, harass, abuse, threaten or otherwise obstruct an Enforcement Officer, City employee, or contractor employed by the City while carrying out activities authorized by this bylaw.

9. OFFENCES AND PENALTIES

- a. Any person who fails to comply with a Notice issued by an Enforcement Officer by the compliance date is in violation of this Bylaw and may be prosecuted under provisions of the *Offence Act* and is subject to a fine not less than \$1000.00 and not more than \$10,000;
- b. Any person who was subject to a Notice under provisions of this Bylaw in the previous 12 months and is again found to be in contravention for a similar offence is immediately in violation and may be charged or ticketed prior to issuing a Notice.
- c. This Bylaw is designated, pursuant to section 264 of the *Community Charter*, S.B.C. 2003, c.26, as a Bylaw that may be enforced by means of a ticket in the prescribed form;
- d. The words or expressions listed in Schedule "A" of this Bylaw in the "Designated Expression" column are authorized to be used on a ticket pursuant to section 264(1)(c) of the *Community Charter* to designate an offence against the respective section of this Bylaw appearing opposite in the "Section" column. The amounts appearing in the "Fine" column are the fines set pursuant to section 265 of the *Community Charter* for contravention of the respective section of this Bylaw appearing opposite in the "Section" column;

9. SEVERABILITY

If any portion of this bylaw is held to be invalid by a decision of a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this bylaw.

10. REPEAL

"Property Maintenance Bylaw No. 3915" is hereby repealed.

READ A FIRST TIME THIS 14TH DAY OF APRIL, 2009.

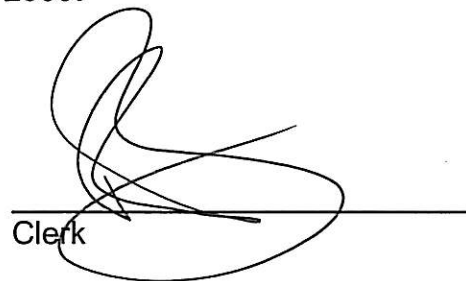
READ A SECOND TIME THIS 27TH DAY OF APRIL, 2009.

READ A THIRD TIME THIS 27TH DAY OF APRIL, 2009.

FINALLY ADOPTED THIS 11TH DAY OF MAY, 2009.



Mayor



Clerk

SCHEDULE "A"
FINE SCHEDULE

Designated Expression	Section	Fine Amount
Accumulate refuse	4. b.	\$100
Store derelict vehicle	4. c.	\$100
Store construction material	4. d.	\$100
Noxious weeds	4. e.	\$100
Unsightly growth	4. f.	\$100
Water accumulation	4. g	\$100
Ground opening	4. h.	\$100
Insect infestation	4. i.	\$100
Rat infestation	4. j.	\$100
Permit Graffiti	4. k.	\$100
Deposit Refuse	4. l.	\$100