



DISTRICT OF PORT EDWARD

PROPERTY MAINTENANCE AND STANDARDS BYLAW NO. 706, 2020

WHEREAS under Sections 8 and 64 of the *Community Charter*, Council is authorized to regulate, prohibit, and impose requirements in relation to nuisances, disturbances and other objectionable situations;

AND WHEREAS under Section 17 of the *Community Charter*, Council directs that if a person subject to a requirement fails to take the required action the municipality may fulfill the requirement at the expense of the person and recover the costs incurred from that person as a debt;

AND WHEREAS under Section 194 of the *Community Charter*, Council may, by bylaw, impose a fee payable in respect of all or part of a service of the municipality or the exercise of a regulatory authority by the municipality;

AND THEREOFRE the Council of the District of Port Edward in open meeting assembled enacts as follows:

1. CITATION

1.1 This Bylaw may be cited as “Property Maintenance and Standards Bylaw No. 706”

2. REPEALS

2.1 That the “Village of Port Edward Bylaw # 277” and its amendments be repealed in its entirety.

3. DEFINITIONS

“**Agent**” means an individual authorized to represent and act on behalf of an **owner**;

“**Bylaw Enforcement Officer**” means a person or persons appointed from time to time by resolution of Council;

“**District**” means the District of Port Edward;

“**Container**” means a dumpster, garbage can, garbage bin, or other receptacle designed, intended or used to hold **rubbish**, discarded materials, waste products and matters, and debris;

“**Derelict**” means physically wrecked or disabled;

“**Graffiti**” means writing or pictorial representation scratched, scribbled, painted or otherwise applied to walls, roofs, fences, windows, or other structures or surfaces but not including permitted signs and **murals**.

“**Mural**” means a painting that is applied directly to the wall of the building with the consent of

the owner of that building and does not include any text or logo other than the name of the artist;

“**Noxious Weeds**” means any harmful or invasive species designated as such under the *Weed Control Regulation* pursuant to the *Weed Control Act*;

“**Notice to Comply**” means an order substantially in the form described in Section 7 of this Bylaw;

“**Nuisance**” means anything that is obnoxious, offensive, or interferes with the use or enjoyment of property, or endangers personal health or safety;

“**Nuisance Service Call**” means a response by a **Bylaw Enforcement Officer** or RCMP member to, or abatement of, any activity, conduct or condition occurring on or near **real property** that is contrary to a provision within Section 5 of this bylaw;

“**Occupier**” means a person residing on a property or entitled to possession thereof;

“**Owner**” means the **owner** of an estate in fee simple, the tenant for life under a registered life estate, the last registered holder of the last registered agreement for sale, the holder or occupier of land held in the manner referred to in Section 228 or 229 of the *Community Charter*; and an authorized **agent** for the **owner**;

“**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, which may include buildings and roads, among other things;

“**Rubbish**”, in addition to its common dictionary meaning, shall include decaying or non-decaying and solid or semi-solid wastes, such as paper, trash, glass, crates, rags, barrels, boxes, lumber not neatly piled, yard trimmings and brush, wood, dry vegetation, dirt, weeds, dead trees and branches, stumps, tin and other metal, scrap paving metal, ashes from fireplaces and on-site incinerators, discarded or dilapidated furniture, bedding, mattresses, discarded or dilapidated appliances, tires, **derelict** vehicles and other vessels, machinery, mechanical or metal parts, construction and demolition waste, and piles of earth mixed with any of the above;

“**Unightly**” describes property having any one or more of the following characteristics:

- (a) fences characterized by holes, breaks, rot, crumbling, cracking, peeling or rusting;
- (b) landscaping that is dead, characterized by uncontrolled growth or lack of maintenance, or is damaged;
- (c) a lowering in quality of the condition or appearance of a building or structure or parts thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay or neglect or excessive use or lack of maintenance; or
- (d) any other similar conditions of disrepair and deterioration regardless of the condition of other properties in the neighbourhood

“**Vehicle**” means any device as defined in the *Motor Vehicle Act* and shall include, but not be limited to, snowmobiles, dirt bikes, and all-terrain **vehicles**.

4. AUTHORITY TO ENTER

- 4.1 **Bylaw Enforcement Officers** may enter at all reasonable times in a reasonable manner any **real property** that is subject to this bylaw to ascertain whether the requirements of this bylaw are being met and the regulations in this bylaw are being observed and no person shall interfere with, hinder or obstruct the **Bylaw Enforcement Officer** from doing so.

5. GENERAL PROHIBITIONS

- 5.1 No person, **owner** or occupier of **real property** or their **agents** shall:

- (a) cause or permit the accumulation of noxious, offensive, or unwholesome materials, substances or objects
- (b) cause or permit the accumulation of water or **rubbish**;
- (c) cause or permit **real property** to look **unsightly**;
- (d) where a building permit has been issued, cause or permit demolition waste, construction waste, or trade waste to accumulate on or around the **real property**;
- (e) place **graffiti** on walls, fences, or elsewhere adjacent to a public place;
- (f) interfere with, obstruct, or prevent any person authorized by this bylaw, any employee of the District, or any other person engaged by the District, from performing any duties or exercising any authority under this bylaw;
- (g) keep a derelict vehicle of any sort, including but not limited to a vehicle, boat, or trailer except as part of a lawful business operating under a license from the District;
- (h) permit the growth of **noxious weeds** on or around the **real property**;
- (i) permit unsightly insect infestations on or around the **real property**.

6. EXEMPTIONS

- 6.1 Notwithstanding the provisions of this bylaw, no person shall be guilty of an infraction of this bylaw for the accumulation of construction materials on real property for more than 15 days if:

- (a) the owner or agent of the real property is in possession of a valid building permit; or
- (b) the construction materials are stored in a closed building or structure such that they are not visible from another parcel or public space.

7. NOTICE TO COMPLY

- 7.1 Where an **owner**, **occupier**, or their **agent**, fails to comply with any of the provisions of Section 5, a **Bylaw Enforcement Officer**, may serve a written **Notice to Comply** in accordance with clause 7.2 requiring that person to remedy the non-compliance to this bylaw.

- 7.2 The **owner, occupier, or their agent** must:
- (a) Comply with the requirements of the notice within 14 days of the date of the notice; or
 - (b) Within 7 days of the date of the notice, contact the **Bylaw Enforcement Officer** and develop a plan to achieve compliance with this bylaw within 14 days of the date of notice, or such longer period as the **Bylaw Enforcement Officer**, acting reasonably, may allow.
- 7.3 If the **owner, occupier, or agent** does not comply with the requirements under clause 7.2, the District may by its employees or contractors, at reasonable times and in a reasonable manner, enter the **real property** and remedy the offending conditions at the expense of the person who has failed to comply.
- 7.4 All reasonable expenses incurred by the District under clause 7.3 are payable by the **real property owner** and, if unpaid on or before December 31st in the year in which the charges are incurred, will form part of the taxes payable on such property as taxes in arrears.
- 7.5 A **Notice to Comply** may be served on an **owner, occupier, or agent of real property** and is deemed to be served when the District has:
- (a) mailed, by registered mail, a copy of the **Notice to Comply** to the address of the **owner** shown on the last revised property assessment roll;
 - (b) delivered a copy of the **Notice to Comply** to the **owner** of the **real property** at the address shown on the last revised property assessment roll;
 - (c) placed the **Notice to Comply** in a mailbox or other receptacle for the receipt of mail on the **real property**; or
 - (d) posted a copy of the **Notice to Comply** on the **real property**.

8. OFFENCE AND PENALTIES

- 8.1 Any **owner, occupier, or their agent** who violates or who causes to be violated any of the provisions of this bylaw, shall be guilty of an offence against the bylaw, and each day that such violation is caused or allowed to continue shall constitute a separate offence.
- 8.2 Any **owner, occupier, or their agent** who contravenes any of the provisions of this bylaw shall be liable on conviction to a fine of not more than two thousand dollars (\$2,000.00).
- 8.3 A violation of Section 5 of this bylaw may be enforced by municipal ticket and is subject to a fine of one hundred dollars (\$100).
- 8.4 Nothing in this part interferes with the right of the District to commence proceedings and charge by way of the procedures as set out in the *Offence Act*.

9. REPEAT SERVICE CALLS

- 9.1 Where a **Bylaw Enforcement Officer** or member of the RCMP are required to respond to **real property** for more than three nuisance service calls within any 12 month period, the

owner of the **real property** shall pay a Nuisance Abatement Fee of two hundred and fifty dollars (\$250.00) for each **nuisance service call** in excess of three within any 12 month period.

- 9.2 Despite section 9.1 of this bylaw, where legal title to the **real property** is transferred, **nuisance service calls** occurring before the date the new **owner** obtains legal title to the **real property** shall not apply to the determination under section 9.1 of this bylaw whether Nuisance Abatement Fees are payable or within respect to the amount that is payable.
- 9.3 Before an **owner** of **real property** is liable to pay a Nuisance Abatement Fee, the District shall provide written notice to the **owner** that:
- (a) describes the nature of the contravention or nuisance conduct, activity or condition; and
 - (b) advises the **owner** Nuisance Abatement Fees and that such fees are in addition to the District's right to seek other legal remedies or actions for abatement of the nuisance or contravention.
- 9.4 Service of the notice under section 9.3 of this bylaw is deemed to have been served in the manner provided for in section 7.5 of this bylaw.
- 9.5 Nuisance Abatement Fees shall be paid by the **owner** within 14 days of receipt of the notice outlined in section 9.3 of this bylaw.

10. SEVERABILITY

- 10.1 If any division, section, subsection, sentence, clause or phrase of this bylaw is for any reason held to be invalid by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the bylaw.

READ a first time on the 25th day of February, 2020
READ a second time on the 25th day of February, 2020
READ a third time on the 25th day of February, 2020

RECONSIDERED AND FINALLY ADOPTED on the day 10th of March, 2020.

Knut Bjorndal, Mayor

Polly Pereira, Director of Corporate Administrative Services