

THE CORPORATION OF THE CITY OF GREENWOOD

Bylaw No. 782

**A BYLAW TO PROHIBIT UNSIGHTLY PROPERTY WITHIN THE LIMITS OF
CITY OF GREENWOOD**

WHEREAS Sections 725 and 797.1 of the *Local Government Act* permit Council to enact local legislation with respect to unsightly and untidy premises;

NOW THEREFORE the Council of the City of Greenwood, in Open Meeting assembled, ENACTS AS FOLLOWS:

TITLE

1. This Bylaw may be cited as “Unsightly Premises Bylaw No. 782”.

INTERPRETATION

2. In this Bylaw, unless the context otherwise requires:

ACCUMULATION has its common dictionary meaning and includes a collection, mass or pile existing at the time of inspection.

COUNCIL means the Council of the Corporation of the City of Greenwood.

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.

DERELICT VEHICLE means any vehicle or part thereof, propelled otherwise than by muscle power which:

- (a) is physically wrecked or disabled;
- (b) is not capable of operating under its own power; and
- (c) does not have attached number plates for the current year pursuant to the regulations of the “Motor Vehicle Act” of the Province of British Columbia.

FENCE means a tight board structure no more than 2 metres high, constructed with dimension lumber, painted or stained a natural earth colour and constructed to a design approved by the Inspector.

HIGHWAY includes a street, road, lane, bridge, viaduct and any other way open to public use, but does not include a private right-of-way on private property.
INSPECTOR means a person appointed from time to time by resolution of Council to administer and enforce this Bylaw.

NUISANCE includes the common dictionary meaning and as used in the *Community Charter* and in the *Local Government Act* and includes a dangerous structure.

OCCUPIER means a person

- (i) who is qualified to maintain an action for trespass;
- (ii) who is in possession of Crown land
- (iii) who is in possession of
 - (A) Crown land, or
 - (B) Land owned by a municipality or regional district under a lease, licence, agreement for sale, accepted application to purchase, easement or other record from the Crown, municipality or regional district,
- (iv) 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 (*taxation of Crown land used by others*) or section 229 (*taxation of municipal land used by others*) and

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.

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.

RUBBISH means:

1. all garbage, trash, waste materials, discarded and broken materials, including containers, packages, bottles, cans or parts thereof;
2. any abandoned articles, products or goods of manufacture;

UNSIGHTLY PROPERTY includes real property that is in an unsightly state, and includes but is not limited to, real property that contains:

- (a) the storage or accumulation of any rubbish that can be seen from the highway and/or from the Trans Canada Trail;
- (b) the untidy storage of building construction materials, where construction is not taking place, except where such materials cannot be seen from the highway.

WATERCOURSE means a drain, ditch, pond, creek, lake, river or accumulation of surface water on or passing through real property.

REGULATIONS

3. (a) All persons are prohibited from discarding, dumping or throwing rubbish on any real property or in any watercourse whether it be on public or private property except in a designated refuse disposal area under permit from the Waste Management Branch, Ministry of Environment.
- (b) No person, owner or occupier of real property shall allow the real property to become or remain unsightly property including, but not limited to, by the accumulation of any rubbish on said real property.
- (b)(i) No person, owner or occupier of real property shall allow the real property to become or remain unsightly property including, but not limited to, by the storage of a derelict vehicle, or derelict vehicles, on said real property.
- (c) All persons are prohibited from causing, creating or permitting any nuisance to occur or to continue from or on any real property, watercourse or highway within the Municipality.
- (d) No person, owner or occupier of real property shall allow any building, structure or erection of any kind, or watercourse, or other matter or thing, whether in or on private land or a highway, or in or about a building or structure, to become or remain a nuisance.
- (e) Owners or occupiers of real property within the Municipality are required, when said real property is unsightly property or has a nuisance located on or in said real property, to remove all rubbish therefrom or to remove or correct the nuisance.
- (f) The Municipality may require the owners or occupiers of real property, or the agents of owners or occupiers of real property, who have allowed rubbish of any kind to accumulate in or on the real property, to construct a fence with the express purpose that the rubbish may be stored behind the fence and not be visible from a highway.

ENFORCEMENT

4. (a) The Inspector may, at any reasonable time, enter upon any real property within the Municipality for the purpose of inspecting said real property in order to ascertain whether or not the provisions of this Bylaw are being with.

- (b) Inspections of real property under this Bylaw by the Inspector may be initiated by:
 - (i) request of the Municipality, or
 - (ii) complaints received by the Inspector pursuant to paragraph 4(c) hereof.

- (c) Complaints regarding any violation of the provisions of this Bylaw must be made in writing to the Inspector who may, but is not obliged to, inspect the real property which is the subject of the complaint.

- (d) If the Inspector determines that any real property within the Municipality is unsightly property or has a nuisance on or in it, he shall advise the owner or occupier of the real property to:
 - (i) remove all rubbish from said real property or to correct or remove any nuisances thereon within thirty (30) days of giving the notice; or
 - (ii) erect a fence to the satisfaction of the Inspector so that the unsightly property is not visible from any highway.

- (e) Any written notice given by the Inspector under the provisions of this Bylaw shall be deemed to be validly given if:
 - (i) delivered personally; or
 - (ii) mailed to the owner or occupier of the real property in question by return registered mail and addressed to the said owner or occupier, in care of the ordinary postal address for such real property.

- (f) In the event the owner or occupier of real property cannot be contacted via return registered mail at the ordinary postal address for such real property, notice may be given the owner or occupier of the real property by posting a copy of the order upon a building on the property or, in the case of vacant land, in a location visible from an adjacent highway.

- (f) If, after the expiry of thirty (30) days from the date of the notice given pursuant to this Bylaw, the unsightly property has not been corrected to the Inspector's satisfaction or the nuisance has not been removed to the Inspector's satisfaction, by the owner or occupier of the real property in question,
IT SHALL BE LAWFUL for the Municipality, by its workers and others, to enter upon said real property and effect the correction or removal of the condition by any means possible under the existing circumstances at the expense of the owner or occupier so defaulting. The changes incurred by the Municipality for so doing, if unpaid on the 31st day of December in any year shall be added to and form part of the taxes payable in respect of such real property as taxes in arrears.

APPEAL

5. Notwithstanding the foregoing provisions of this Bylaw, where the Inspector has given notice pursuant to this Bylaw, the owner or occupier of real property receiving such notice shall have the right, within ten (10) days of receipt of such notice, to appeal in writing to Council, and such owner or occupier of real property shall be entitled to appear before Council to present evidence and call witnesses. On conclusion of the appearance, Council may rescind, vary or confirm the notice.

PENALTY

6. (a) Every owner or occupier of real property who violates any provision of this Bylaw, or who refuses or neglects to observe or perform any duty or obligation created or imposed by this Bylaw is guilty of an offence against this Bylaw and each day's continuance of the violation, refusal or neglect constitutes a new and distinct offence.
- (b) Every owner or occupier of real property who, without lawful excuse, Contravenes this Bylaw by willfully doing any act which this Bylaw forbids or omitting to do any act which the Bylaw requires to be done, is guilty of an offence and is liable on summary conviction, to a fine of not less than One Hundred Dollars (\$100.00) and not more than One Thousand Dollars (\$1000.00) for the first offence, and for each subsequent offence, to a fine of not less than Two Hundred Dollars (\$200.00) and not more than Two Thousand Dollars (\$2000.00), together with all court costs, or in default thereof, to imprisonment for a period not exceeding six (6) months.
- (c) The penalties imposed under this Section of this Bylaw shall be in addition to and not in substitution for any other penalty or remedy imposed by this Bylaw.

EXEMPTION

- 7.0 Notwithstanding the other provisions of this Bylaw, all discharges of plant and animal wastes emanating from traditional farming operations which are managed and applied in a reasonable manner as organic fertilizer to promote crop production and the accumulation of materials and equipment required for traditional farming operations are exempt from provisions of this Bylaw.
- 7.1 The City sewer treatment plant is exempt from the provisions of this Bylaw.

REPEAL

8. This Bylaw shall, upon coming into effect and force, repeal “City of Greenwood Unsightly Premises Bylaw 706”.

EFFECTIVE DATE

9. This Bylaw shall come into effect and force upon final adoption

Read a FIRST time this 11th day of April , 2005

Read a SECOND time this 11th day of April, 2005

Read a THIRD time this 11th day of April, 2005

FINALLY ADOPTED this 25th day of April, 2005

Mayor

Administrator

CERTIFICATION

Certified a true copy of Bylaw #782
as Adopted by Resolution #201
on the 25th day of April, 2005

Administrator