

CITY OF PORT COQUITLAM

PROPERTY STANDARDS AND NUISANCE ABATEMENT BYLAW, 2020

Bylaw No. 4190

A Bylaw of the City of Port Coquitlam to regulate, prohibit, and impose requirements in relation to property maintenance, the abatement of nuisance, and to provide for recovery of the costs of nuisance abatement where undertaken by the City.

1. CITATION

This Bylaw is cited as "Property Standards and Nuisance Abatement Bylaw, 2020, No. 4190".

2. INTERPRETATIONS

- 2.1 Words or phrases defined in the British Columbia *Interpretation Act*, *Motor Vehicle Act*, *Community Charter* or *Local Government Act* or any successor legislation, shall have the same meaning when used in this Bylaw unless otherwise defined in this Bylaw.
- 2.2 If any part of this Bylaw is for any reason held invalid by any court of competent jurisdiction, the invalid portion shall be severed and the severance shall not affect the validity of the remainder.

3. DEFINITIONS

3.1 In this Bylaw:

"Building Materials" means items used in the construction of structures or in landscaping, including, but not limited to lumber, gypsum board, windows, doors, roofing materials, scaffolding, equipment, tools, bricks, building blocks, fill, sand, and soil;

"Building Inspector" means any building inspector or official including Chief Building Inspector and Manager of Building;

"Bylaw Enforcement Officer" means every person employed by the City for the purpose of enforcement of the City's bylaws and includes members of the Royal Canadian Mounted Police;

"Bylaw Services Manager" means the person appointed as Bylaw Services Manager or their designate;

"Council" means the Municipal Council of the Corporation of the City of Port Coquitlam;

"Derelict" means

- a) physically wrecked or dilapidated;

- b) in the case of a Motor Vehicle, incapable of operating under its own power or lacking number plates for the current year pursuant to the regulations under the *Motor Vehicle Act*, RSBC 1996, c. 318; and
- c) in the case of a trailer, incapable of being towed in the manner a trailer is normally towed.

“Discarded Materials” include all materials not in use for the construction or maintenance of a building situated on that property, appliances, Motor Vehicle parts, machinery, firewood, unless it is neatly piled or stacked against a wall or fence, and any other chattels in a dismantled state or not in use for the purpose for which the manufacturer intended;

“Fire Inspector” means any Fire Prevention Officer including Fire Prevention Inspectors, Fire Prevention Captains or Deputy Fire Chief, Fire Protective Services & Public Education;

“Graffiti” includes one or more letters, symbols, writing, pictures or marks, however made, posted, scratched, etched, painted or drawn on any structure or thing but does not include any of the following:

- a) a sign, public notice or traffic control devices authorized by the Director of Engineering appointed by Council of the City of Port Coquitlam;
- b) a sign authorized by the Sign Bylaw, No. 2638 as amended or replaced from time to time;
- c) a public notice authorized by a City bylaw or by provincial or federal legislation; or
- d) a letter, symbol or mark on a building or structure for which the owner or tenant of the building or structure has given prior, written authorization, such as a mural;

“Public Place” includes every street, road, land, boulevard, sidewalk, lane, bridge, viaduct and any other way open to public use and any park, building, conveyance, private place or passageway to which the public has, or is permitted to have access or is invited;

“Motor Vehicle” means a device in, upon, or by which a person or thing is or may be transported or drawn upon a highway, except a device designed to be moved by human power or used exclusively upon stationary rails or tracks;

“Noxious Weed” means any weed designated by regulation to be a Noxious Weed pursuant to the *British Columbia Weed Control Act* RSBC 1996 Chapter 487;

“Nuisance Abatement Fees” means the fees, charges and amounts stated in the City's *Fees and Charges Bylaw No. 3892*;

“Nuisance at Law” means the essence of the tort of nuisance is interference with the enjoyment of land.

“Nuisance Service Call” means a response by a bylaw enforcement officer, building inspector member of the fire department or member of the RCMP to, or abatement of,

any activity, conduct or condition occurring on or near real property that is contrary to a provision within sections 3, 4, 5 or 6 of this bylaw;

“Rubbish” means solid and semi-solid wastes, dead animals, paper, trash, refuse, cardboard, waste material, demolition material, cans, bottles, yard clippings, wood, rubber, plastics, glass, bedding, mattresses, crates, pallets, rags, barrels, boxes, scrap iron and other metal, scrap paving material, broken flower pots, discarded tanks of fuel and propane, dilapidated motor vehicles, discarded household appliances, and discarded furniture.

4. GENERAL PROHIBITION

- 4.1 No owner or occupier of real property shall cause or permit any act to be done on that real property which constitutes a nuisance at law.
- 4.2 No owner or occupier of real property shall cause or permit any act which unreasonably interferes with another person or owner's use and enjoyment of their property or of a public place.
- 4.3 No owner or occupier of real property shall cause or permit any act which is an offence under the *Controlled Drugs and Substances Act*, 1996 chapter 19, *Criminal Code of Canada R.S.C., 1985, c. C-46*, or the *Liquor Control and Licensing Act, R.S.B.C., c. 267*.

5. LIGHTING

- 5.1 An owner or occupier of real property shall ensure that an outdoor light on the property is shielded by a shade or fixture such that the light source does not create a nuisance.
- 5.2 This section does not apply to outdoor lighting emanating from:
 - a) streetlights;
 - b) vehicle lights;
 - c) lights on playing fields;
 - d) lights on school playgrounds.

6. GENERAL PROPERTY MAINTENANCE

- 6.1 An owner or occupier of real property must not cause, allow or permit with respect to that real property:
 - a) the storage of Discarded Materials, Rubbish, Derelict Vehicles or Motor Vehicle parts, household chattels and fixtures, furniture, appliances, and other household items of value unless the item is in a closed building or permitted temporary structure;
 - b) the parking or storage of a Motor Vehicle, boat, trailer or recreational vehicle:

- (i) on a landscaped portion of real property; or
 - (ii) on a landscaped portion of a boulevard; or
 - (iii) in a dismantled condition or state of disrepair including, but not limited to, mould growth or one or more flat tires unless the item is in a closed building or permitted temporary structure;
- c) grass, weeds or similar ground cover to be over 15 centimeters in height;
- d) a building or structure or parts thereof to become dilapidated, collapsed or unfinished, including to have holes, breaks, rot, crumbling, cracking, peeling, rusting, missing siding, one or more tarps or plastic covering a roof, or any other evidence of physical decay or neglect or excessive use or lack of maintenance;
- e) the accumulation of building materials for more than 15 days in a calendar year unless they are in a closed building or structure such that they are not visible from any other property or public place;
- f) a fence, retaining wall, or wood ties to become unstable or unsafe, or be rotting, crumbling, cracking, leaning, peeling, or rusting;
- g) the accumulation or growth of Noxious Weeds;
- h) the accumulation of uncontrolled growth, cut tree branches, dead trees, leaves, dead bushes or other growth, unstacked firewood, dirt piles, or uncontained compost material;
- i) Graffiti to remain on Motor Vehicles, buildings, walls, fences or elsewhere in, or visible from a public place;
- j) water to collect or accumulate in a pond, swimming pool, hot tub or as surface water such that it becomes sufficiently stagnant to permit the breeding of mosquitoes, other insects, mould, algae or other similar organisms.

6.2 For the purpose of section 6.1, storage within a building or structure does not include covering an item with a tarp or other cover.

7. OBJECTIONABLE NOISE

- 7.1 No owner or occupier of real property shall allow or permit such real property to be used so that noise or sound which emanates therefrom is liable to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public, including, but not limited to yelling, shouting, screaming or profane language.
- 7.2 No owner or occupier of real property shall make, cause, or permit to be made or caused, noise or bass sound of a radio, television, player, or other sound playback device, public address system, or any other music or voice amplification equipment, musical instrument, whether live or recorded or live, whether

amplified or not, in or on private property in such manner that is liable to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public.

8. COMPLIANCE ORDER

- 8.1 If an owner or occupier of real property fails to comply with a requirement of this Bylaw, then a Bylaw Enforcement Officer may issue an order requiring that an owner or occupier of the real property bring the real property into compliance with the provisions of this Bylaw within such time as a Bylaw Enforcement Officer considers appropriate in the circumstances.
- 8.2 If an owner or occupier of real property fails to comply with the Bylaw Enforcement Officer's Compliance Order within the time period specified in such notice, the City, by its workers or others, may, at all reasonable times and in a reasonable manner, enter the real property and bring about such compliance at the cost of the defaulting owner or other responsible person.
- 8.3 Such costs shall consist of all costs and expenses incurred by the City to achieve compliance with Section 6 of this Bylaw including, without limitation, administrative costs, costs to attend property by City employees or its contractors as stipulated in Schedule N, of the City's Fees and Charges No. 3892 and the costs of removal, clean up and disposal.
- 8.4 If an owner or occupier of real property defaults in paying the cost referred to in Section 8.2 to the City within 30 days after receipt of a demand for payment from the City, the City may either recover from the owner or occupier, in any court of competent jurisdiction, the cost as a debt due to the City, or if such costs remain unpaid by December 31 of the year in which they are owing, the costs may be recovered as property taxes in arrears in accordance with Part 14 of the *Community Charter*.
- 8.5 Service of the Compliance Order referred to in Section 8 will be sufficient if a copy of the order is:
 - a) served personally or mailed by prepaid registered mail to the owner of the real property as shown on the current year's real property assessment roll;
 - b) regular mail; and
 - c) either posted on the real property or delivered to the occupier of the real property.
- 8.6 When an order is not served in accordance with Section 8.5 (a), such order is deemed to have been served on the third day after mailing in accordance with Section 8.5 (b).

9. FIRST APPEAL AGAINST COMPLIANCE ORDER

- 9.1 The owner of real property who may be subject to a Compliance Order, may appeal to the Bylaw Services Manager at least 7 days prior to the expiration of the time given in the Compliance Order.
- 9.2 The owner of the real property may only appeal in written form.
- 9.3 The Bylaw Services Manager shall determine the appeal by confirming, amending or rescinding the Compliance Order.

10. FINAL APPEAL AGAINST COMPLIANCE ORDER

- 10.1 The owner of real property who may be subject to a Compliance Order, may appeal to Council at least 72 hours prior to the expiration of the time given in the Compliance Order.
- 10.2 The owner of the real property must be given 72 hours advance notice of the meeting at which Council will hear an appeal.
- 10.3 The owner of the real property may appeal in person or in written form.
- 10.4 Council shall determine the appeal by confirming, amending or rescinding the Compliance Order.
- 10.5 Council's decision shall be final.

11. REPEAT NUISANCE SERVICE CALLS

- 11.1 Where a Bylaw Enforcement Officer, member of the fire department or member of the RCMP are required to respond to real property for:

- a) more than one Nuisance Service Call within a 24 hour period; or
- b) more than three Nuisance Service Calls within a 12 month period;

the owner of the real property shall be liable to pay Nuisance Abatement Fees in accordance with the amounts set out in the City's *Fees and Charges Bylaw No. 3892* or each additional Nuisance Service Call responded to at that same real property within the 12 month period following the date of the notice referred to in Section 11.3.

- 11.2 Despite section 11.1 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 11.1 of this bylaw whether Nuisance Abatement Fees are payable or with respect to the amount that is payable. The new owner shall, in any event, be liable for all unpaid Nuisance Abatement Fees imposed against the real property in respect of past Nuisance Service Calls.

- 11.3 Before an owner of real property is liable to pay Nuisance Abatement Fees, the City shall provide written notice to the owner that:
- a) describes the nature of the contravention or nuisance conduct, activity or condition that have resulted in Nuisance Service Calls; and
 - b) advises the owner of Nuisance Abatement Fees and that such fees are in addition to the City's right to seek other legal remedies or actions for abatement of the nuisance or contravention.
- 11.4 Service of the notice referred to in 11.3 will be sufficient if the notice:
- a) in the case of service on an individual, is served personally or mailed by prepaid registered mail to the address of the owner shown on the current year's real property assessment roll for the real property for which the notice is issued;
 - b) in the case of service on a corporation, is served personally on a director, officer or manager of the corporation or by leaving it at or mailing it by prepaid registered mail to the registered office of the corporation.
- 11.5 Nuisance Abatement Fees shall be paid by the owner within 30 days of receipt of an invoice from the City.
- 11.6 If Nuisance Abatement Fees are imposed in relation to real property remains unpaid by December 31 of the year in which it is owing, the fee may be recovered as property taxes in arrears in accordance with the *Community Charter*.
- 11.7 The City may impose Nuisance Abatement Fees despite a person not being charged with an offence relating to a contravention of this Bylaw or the person being charged with an offence relating to a contravention of this Bylaw being acquitted of any or all charges, including because the charges are withdrawn, stayed or otherwise do not proceed.

12. APPEAL AGAINST NUISANCE ABATEMENTS FEES

- 11.1 The owner of real property who may be subject to Nuisance Abatement Fees may appeal to Council within 14 days of receipt of a notice to pay.
- 11.2 The owner of the real property must be given 72 hours advance notice of the meeting at which Council will hear an appeal.
- 11.3 The owner of the real property may appeal in person or in written form.
- 11.4 Council shall determine the appeal by confirming, amending or rescinding the Nuisance Abatement Fees.
- 11.5 Council's decision shall be final.

13. ENFORCEMENT & INSPECTIONS

- 13.1 The provisions of this Bylaw may be enforced by any Bylaw Enforcement Officer.
- 13.2 Any Bylaw Enforcement Officer may enter, in accordance with Section 16 of the *Community Charter*, upon any property subject to this Bylaw in order to inspect and determine whether all regulations, restrictions and requirements are being met.
- 13.3 No person shall interfere with, or attempt to obstruct a Bylaw Enforcement Officer who is conducting an inspection or enforcement action in relation to this Bylaw.
- 13.4 No person shall provide false or misleading information to a Bylaw Enforcement Officer.

14. OFFENCE AND PENALTIES

- 14.1 Notwithstanding the offence and penalties as provided under the *Community Charter* or *Local Government Act*, the following will apply:
 - a) a violation of any of the provisions identified in this Bylaw will result in liability for penalties and late payment amounts established in the City's Bylaw Notice Enforcement Bylaw.
 - b) a Person who:
 - (i) contravenes, violates or fails to comply with any provision of this Bylaw;
 - (ii) suffers or allows any act or thing to be done in contravention or violation of this Bylaw; or
 - (iii) fails or neglects to do anything required to be done under this Bylaw;is deemed to have committed an infraction of, or an offence against, this Bylaw; and is liable on summary conviction to a fine of not more than \$50,000.00; and
 - c) each day such infraction is caused, or allowed to continue, constitutes a separate offence.

15. NO DUTY OF CARE

Neither failure to enforce this Bylaw, nor any error, omission, or other neglect in relation to the enforcement of this Bylaw, shall be interpreted as giving rise to a cause of action in favour of any person.

16. REPEAL

The City of Port Coquitlam Property Maintenance Bylaw, No. 2943 as amended, is repealed.

READ A FIRST TIME this _____ day of _____, 2020

READ A SECOND TIME this _____ day of _____, 2020

READ A THIRD TIME this _____ day of _____, 2020

Mayor

Corporate Officer