

**TOWN OF LAKE COWICHAN
BYLAW NO. 1050-2021**

A BYLAW TO PROHIBIT UNSIGHTLINESS IN THE TOWN OF LAKE COWICHAN

WHEREAS sections 7,8,12,15,16 and 17 of the Community Charter provides Council. the authority to regulate and prohibit unsightly conditions within the Town of Lake Cowichan;

AND WHEREAS unsightly conditions have been found to exist in places throughout the Town;

AND WHEREAS the existence of such conditions is detrimental to the welfare of the residents of the Town and contributes increasingly to the deterioration of neighbourhoods;

AND WHEREAS the abatement of such conditions will improve the general welfare and image of the Town;

NOW THEREFORE the Council of the Town of Lake Cowichan in open meeting assembled enacts as follows:

Part 1

1. CITATION

This bylaw may be cited for all purposes as "Town of Lake Cowichan Property Maintenance and the Prohibition of Unsightly Premises Bylaw No. 1050-2021".

2. INTENT OF BY-LAW

- (a) to protect the community from unsightly, hazardous, and blighting conditions that contribute to the deterioration of neighbourhoods;
- (b) to provide for the abatement of such conditions; and
- (c) to prescribe standards for the maintenance of property.

3. DEFINITIONS

In this bylaw:

"**COUNCIL**" means the Municipal Council of the Town of Lake Cowichan.

"**FILTH, DISCARDED MATERIALS OR RUBBISH**" includes all manner of garbage, discarded or disused materials, filth, noxious, offensive or unwholesome matters, unused or stripped automobiles, trucks, trailers, boats, vessels, machinery, mechanical or metal parts, bottles, glass, brush, and noxious weeds or weeds of any kind.



"**GRAFFITI**" means symbols, marks, slogans, designs or drawings, howsoever made, on any sidewalk, wall, building, fence, sign or any other structure or surface but does not include:

- (a) a sign, public notice or traffic control mark authorized by the Town;
- (b) a sign or structure authorized pursuant to the Town's applicable by-law provisions regulating such;
- (c) a public notice authorized by a Town by-law or by provincial or federal legislation.

"**HIGHWAY**" has the same meaning as defined in the *Local Government Act*.

"**INSPECTOR**" includes:

- (a) a peace officer;
- (b) a by-law enforcement officer;
- (c) a local assistant to the Fire Commissioner;
- (d) a representative of the Island Health Authority;
- (e) a British Columbia Gas and Electrical Inspector;
- (f) a Building Inspector, or his or her designate;
- (g) any officer, employee or a representative of the Town; and
- (h) a representative of any other governmental agency having jurisdiction in building and structure safety or the health and protection of persons and property.

"**LITTER**" means substances, excluding toxic, biomedical, or hazardous materials, of no apparent economical value, that can be discarded into a standard household waste container or garbage bag or bags.

"**MUNICIPALITY**" means the Town of Lake Cowichan.

"**NOXIOUS WEEDS**" includes those listed in Schedule 'A' to this bylaw.

"**OCCUPANT**" includes:

- (a) a person residing on or in property;
- (b) the person entitled to the possession of property if there is no person residing on or in the property; and
- (c) a leaseholder; and shall include the agent of any such person.

"**OWNER**" has the same meaning as defined in the *Community Charter*.

"**PROPERTY**" means all real property, including, but not limited to, front yards, side yards, backyards, driveways, walkways, sidewalks, and boulevards and shall include any building, structure or fence located on such real property.

"**PROPERTY MAINTENANCE STANDARDS**" means all the property maintenance standards prescribed in Section 5 of this By-law.

"**RUBBISH**" means decaying or non-decaying solid and semi-solid wastes, including but not limited to both combustible and non-combustible wastes, such as paper, trash, refuse, cardboard, waste material, cans, yard clippings, wood, glass, bedding, mattresses, crates, rags, barrels, boxes, lumber not neatly piled, scrap iron, tin and other metal, scrap paving material, discarded appliances, discarded furniture, dry vegetation, weeds, dead trees and branches, overgrown vegetation and trees which may harbour insect or rodent infestations or may become a fire hazard and piles of earth mixed with any of the above.



"**UNSIGHTLY**" describes property having any one or more of the following characteristics:

- (a) the accumulation of junk, filth, litter, brush, discarded materials, refuse, rubbish, garbage or graffiti;
- (b) fences characterized by holes, breaks, rot, crumbling, cracking, peeling or rusting;
- (c) landscaping that is dead, characterized by uncontrolled growth or lack of maintenance, or is damaged;
- (d) 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
- (e) any other similar conditions of disrepair and deterioration regardless of the condition of other properties in the neighbourhood.

Part 2

4. **PROHIBITIONS**

- .1 No owner or occupant of property within the municipality shall permit or allow the property to become or remain unsightly.
- .2 No person shall place graffiti or cause graffiti to be placed on any sidewalk, wall, building, fence, sign or any other structure or surface.
- .3 No owner or occupant of property within the municipality shall cause or permit water, rubbish or noxious, offensive, or unwholesome matter to collect or accumulate around the property.
- .4 No person shall deposit or throw bottles, broken glass, or other rubbish in any open place in the municipality.
- .5 No owner or occupant of property within the municipality shall permit or allow an infestation of the property by caterpillars or other noxious or destructive insects.
- .6 Owners or Occupiers of Real Property or their agents shall keep their property clear of brush, noxious weeds, or other growths.

Part 3

5. **MAINTENANCE OF PROPERTY**

- .1 Nothing in this Part shall be deemed to prevent the lawful storage and keeping of material in or on any non-residential property, if a lawful use requiring that material is conducted on the property and the materials are stored in a neat and orderly fashion.
- .2 All property shall be kept clean and free from accumulations of junk, rubbish, brush, refuse, litter, garbage and other debris, and any conditions that are health, fire, or other hazards.
- .3 All property shall be kept clean and free from dilapidated, collapsed, or unfinished structures.
- .4 All construction conducted on a property shall be carried out in a tidy and orderly fashion, and all construction materials and equipment shall be properly stored when not in use.



- .5 No mechanical equipment, structure, vehicle, trailer or boat or a remnant or any part of them, or that is in a wrecked, discarded, dismantled or inoperative condition shall be parked, stored, or left on property, unless it is lawfully permitted to use the property for this purpose.

6. LANDSCAPING, DRAINAGE AND GRADING

- .1 All property shall be graded and have suitable ground cover to prevent recurrent ponding of water, unstable soil conditions or erosion, and so as to direct the flow of surface water away from the walls of all buildings.
- .2 All property shall be landscaped, so as to prevent unstable soil conditions or erosion, with any combination of the following:
 - (a) trees, shrubs, grass or flowers;
 - (b) decorative stonework, walkways or screening; and
 - (c) any other horticultural or landscape-architectural elements.
- .3 If paving is permitted as landscaping under the provisions of a zoning by-law, any hard surface paved area must be separated from adjacent driveways and walkways with a physical barrier, not less than 150 millimetres above grade.
- .4 Where grass forms part of the ground cover on property, it shall be maintained in a living condition and at a height of not more than 20 centimetres.
- .5 All lawns, shrubs and hedges on property shall be kept trimmed and not be overgrown.
- .6 All property shall be kept free of heavy undergrowth and weeds.
- .7 On all property trees or other plants, or limbs or branches of it, that are dead, diseased, decayed or damaged shall be removed from the property or otherwise pruned to remove the dead, diseased, dying or dangerous portions of the tree or plant.
- .8 On all property all hedges, shrubs, trees, or other plants shall be planted and maintained in a manner that does not:
 - (a) obstruct the safety of the public;
 - (b) affect the safety of vehicular or pedestrian traffic;
 - (c) constitute an obstruction of view for vehicular traffic;
 - (d) wholly or partially conceal or interfere with the use of any hydrant or water valves; or
 - (e) overhang or encroach upon any pavement, sidewalk or travelled portion of any street or highway.

7. ACCESSORY BUILDINGS

- .1 Every accessory building on property shall be constructed and maintained with suitable and uniform materials, kept in good repair, free from hazards, and protected by paint, preservatives, or other weather-resistant material.

8. ENCLOSURES

- .1 All fences, screens, and other enclosures around or on a property shall be maintained in a structurally sound condition and plumb, unless specifically designed to be other than vertical, with a uniform construction, in good repair and free from hazards.



9. RETAINING WALLS

- .1 Retaining walls on property shall be structurally sound and plumb, unless specifically designed to be other than vertical, and shall be maintained in good repair and free from hazard.

10. SIGNS

- .1 On all property:
 - (a) signs and any fastening or supporting members that are damaged, broken or excessively weathered or faded, or that have a worn, peeled or cracked finish, shall be removed or refinished and put in a good state of repair so that the signs are free from defects or faded lettering;
 - (b) signs and sign structures that are not used for the purpose intended, not cared for or discarded shall be removed from the property; and
 - (c) signs shall be maintained so that the information conveyed by the sign by colour, form, graphic, illumination, symbol or writing is clearly legible.

11. BUFFERING

- .1 Property that, because of its use, occupancy or other reasons, creates a nuisance to other properties in the neighbourhood shall be buffered from these properties so as to minimize the effect of the nuisance by the provision and maintenance of:
 - (a) a barrier or deflectors to prevent lighting and vehicle headlights from shining directly into a dwelling unit;
 - (b) a barrier to prevent wind-blown waste, wrappings, debris and similar things from littering or settling on adjacent properties;
 - (c) a visual screen or fence, of uniform construction and appropriate to the nature of the adjacent use, to minimize the visual impact of nuisances to persons at grade on adjacent properties or a public highway; and
 - (d) the provision and maintenance of a barrier of sufficient size and strength to prevent the dumping of debris or refuse in yards or vacant property.

12. EXTERIOR WALLS, COLUMNS AND BEAMS

- .1 On all property the following shall apply:
 - (a) exterior columns, walls and their components shall be maintained in good repair, weather-tight and free from loose or unsecured objects and materials;
 - (b) the protective or decorative finishes of all exterior surfaces shall be maintained in good repair so as to prevent deterioration that affects the appearance of the building or structure;
 - (c) markings, stains, graffiti, painted slogans, smoke damage or other markings or defacement appearing on any exterior surface shall be removed, and, if necessary to maintain the exterior surface, the surface of these areas shall be restored, resurfaced and co-ordinated to the exterior finish of the building or structure; and
 - (d) all canopies, marquees, signs, awnings, screens, grilles, stairways, pipes, ducts, standpipes, air conditioners and all similar equipment, attachments and their supporting members shall be maintained in good repair, properly anchored and protected from the elements, so as to prevent decay and rust, by paint or other protective coating.

13. GARBAGE AND DEBRIS STORAGE AND DISPOSAL

- .1 On all property garbage and refuse shall be stored in receptacles and removed in accordance with other existing by-laws.



Part 4

14. INSPECTION

- .1 An Inspector shall have the right to enter upon the property of any person at reasonable times and in a reasonable manner for the purposes of inspecting the property and declaring whether the property is unsightly or otherwise not in compliance with the provisions of this By-law.

15. TOWN'S ACTIONS

- .1 The notice served by an Inspector pursuant to Section 4.2 shall state:
 - (a) the civic address of the property;
 - (b) the legal description of the property;
 - (c) the particulars of the unsightliness or non-compliance to be remedied;
 - (d) that the unsightliness or non-compliance must be remedied within the time prescribed in the notice; and
 - (e) that if the owner or occupant fails to comply with the notice, the Municipality will proceed to carry out the work required, and the cost of such work will be added to the taxes of the property, and the owner or occupant may be subject to prosecution for an offence under this By-law.
- .2 An owner or occupier to whom notice is given under subsection (1) may appeal the Town's proposed action by applying, within 14 days of the service of the notice, for a hearing by the Town's Finance and Administration Committee.
- .3 Upon hearing an appeal under subsection (2) the Committee may
 - (a) dismiss the appeal;
 - (b) extend the time in which the person appealing must undertake the action required the notice given under subsection (1); or
 - (c) where the Committee determines it is appropriate to do so, vary the action required to be taken by the person appealing and establish time limits within which the person appealing must undertake the action.

Part 5

16. REMEDY BY MUNICIPALITY

- .1 If an owner or occupier fails to comply with a written notice of an Inspector or by the decision of the Committee, the Town at reasonable times and in a reasonable manner, may enter the property and effect the compliance at the expense of the owner or occupier who has failed to comply.
- .2 The costs of compliance and administration fees applied under this bylaw are stipulated in Schedule "A" of this bylaw.

17. COSTS ADDED TO TAXES

- .1 In the event that the person who has failed to comply fails to pay the costs of compliance before the 31st day of December in the year that the compliance was effected, the costs shall be added to and form part of the taxes payable on the property as taxes in arrears.



Part 6

18. OFFENCES AND PENALTIES

- .1 Any person who contravenes, suffers or permits any act or thing to be done in contravention of, or neglects to do or refrains from doing anything required to be done pursuant to any provision of this By-law or any notice issued pursuant hereto, commits an offence and shall be liable to the following provisions:
 - (a) To the penalties imposed by the Offences Act;
 - (b) The fines as stipulated in Schedule "A".
- .2 Where an offence is a continuing offence, each day that the offence is continued shall constitute a separate and distinct offence.
- .3 Prosecution of a person pursuant to Section 18.1 of this By-law does not exempt the person from the remediation provisions of Part 5 of this By-law.

Part 7

19. REPEAL

- .1 "Unsightly Premises Bylaw No. 727-2001" and all amendments thereto is hereby repealed.

READ A FIRST TIME on the 23rd day of February, 2021.

READ A SECOND TIME on the 23rd day of February, 2021.

READ A THIRD TIME on the 23rd day of February, 2021.

RECONSIDERED, FINALLY PASSED and ADOPTED by the Municipal Council of the Town of Lake Cowichan on the _____ day of _____, 2021.

Bob K. Day
Mayor

Joseph A. Fernandez
Corporate Officer



SCHEDULE 'A'

to Bylaw No. 1050-2021

	<u>SECTION</u>	<u>FINE</u>
1. Permit unsightly property	4.1	\$ 500.00
2. Place graffiti	4.2	\$ 250.00
3. Permit accumulation of rubbish	4.3 and 4.4	\$ 500.00
4. Permit infestation	4.5	\$ 500.00
5. Permit noxious weed	4.5	\$ 250.00
6. Maintenance of property	5.0	\$ 250.00

When work is effected by the Town to ensure compliance under this bylaw, the offender is subject to:

- * Actual Costs to effect compliance; and
- * an Administrative Fee of 15% on invoice.

Amount before applicable taxes.



SCHEDULE 'B'

NOXIOUS WEEDS

Canada Thistle (*Cirsium arvense* (1) Scop.)
Dodder (*Cuscuta* spp.)
Knapweed spp.-
 Diffuse (*Centaurea diffusa* Lam.)
 Spotted (*Centaurea maculosa* L.)
 Russian (*Centaurea repens* L.)
Sow thistle, annual and perennial (*Sonchus* spp.)
Leafy spurge (*Euphorbia esula* L.)
Toadflax spp. –
 Common (*Linaria vulgaris* Hill)
 Dalmation (*Linaria dalmatica* L.)
Wild Oats (*Avena fatua* L.)
Tansy Ragwort (*Senecio jacobaea* L.)
Broom (*Cytisus scoparius*)
Any other Plant commonly known as a weed

