

Memo



TO: Chair, Finance and Administration Committee

FROM: Chief Administrative Officer

DATE: August 12, 2020

SUBJECT: Nuisance Bylaw Proposal

BACKGROUND

Council is concerned that the nuisance bylaw is dated. It was enacted in 2001 and current circumstances and issues now require that regulations reflect those. Changes as suggested in the language may well be considered.

The bylaw is attached in its entirety. A review of similar bylaws from Surrey, Victoria and Campbell River was conducted and is reflected in most instances in its entirety below.

1. The preamble could read thus:

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.

2. Minor changes to the **definitions** can be made.

3. Add an **Intent Clause** that reads:

- 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.

4. The following may be an addition:

Property Standards Maintenance of Property

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.

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.

All property shall be kept clean and free from dilapidated, collapsed, or unfinished structures.

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.

No mechanical equipment, 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.

Landscaping, Drainage and Grading

All property shall be graded and have suitable ground cover to prevent recurrent ponding of water, unstable soil conditions or erosion, and to direct the flow of surface water away from the walls of all buildings.

All property shall be landscaped, 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.

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.

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.

All lawns, shrubs and hedges on property shall be kept trimmed and not be overgrown.

All property shall be kept free of heavy undergrowth and weeds.

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.

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.

Accessory Buildings

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.

Enclosures

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.

Retaining Walls

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.

Signs

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.

Buffering

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.

Exterior Walls, Columns and Beams

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 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, to prevent decay and rust, by paint or other protective coating.

Garbage and Debris Storage and Disposal

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

5. Expand Inspection to include Notice:

Inspection and Notice Inspection

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.

Notice to Comply

Upon declaring property to be unsightly or otherwise not in compliance with the provisions of this By-law, an Inspector shall serve on the owner or occupant of the property a notice to:

- (a) perform and comply with the property maintenance standards;
- (b) remove unsightly accumulations of filth, discarded materials, rubbish or graffiti from the property;
- (c) clear the property of brush, trees, noxious weeds or other growths;
- (d) clear the property of caterpillars or other noxious or destructive insects; or
- (e) clear the property of litter.

Contents of Notice

The notice served by an Inspector 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 Town 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.

6. Replace Remedial with the following:

Non-Compliance

Remedy by Town

If an owner or occupier fails to comply with a written notice of an Inspector or Superintendent, the Town, by its employees or other persons, 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.

Costs Added to Taxes

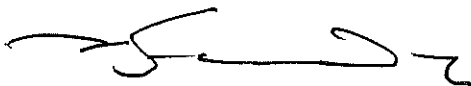
In the event that the person who has failed to comply fails to pay the costs of compliance before the 31st day of December in the year that the compliance was effected, the costs shall be added to and form part of the taxes payable on the property as taxes in arrears.

Offences and Penalties

Offences and Penalties

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 punishable on summary conviction, and shall be liable to a fine of not less than the sum of \$100.00, but not exceeding the sum of \$10,000.00.

Where an offence is a continuing offence, each day that the offence is continued shall constitute a separate and distinct offence.



Joseph A. Fernandez

TOWN OF LAKE COWICHAN

Unsightly Premises Bylaw No. 727-2001

WHEREAS section 725(1) of the *Local Government Act*, RSBC, Chapter 323, provides that Council may by bylaw regulate and prohibit unsightliness on real property;

AND WHEREAS it is deemed appropriate to regulate and prohibit unsightliness on real property within the Town of Lake Cowichan;

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

CITATION

1. This bylaw may be cited for all purposes as “Unsightly Premises Bylaw No. 727-2001”.

DEFINITIONS

2. In this bylaw:

“**Council**” means the Municipal Council of the Town of Lake Cowichan.

“**Filth, Discarded Materials or Rubbish**” includes any and 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 other weeds of any kind.

“**Graffiti**” means drawing, printing, or writing scratched, sprayed, painted or scribbled on a wall or other surface, but does not a duly a duly authorized sign.

“**Highway**” has the same meaning as defined in the *Local Government Act*.

“**Inspector**” means a person appointed by Council resolution to administer this bylaw.

“**Noxious Weeds**” includes those listed in Schedule ‘A’ to this bylaw.

“**Occupier**” has the same meaning as defined in the *Local Government Act*.

“**Open Place**” means a highway or any Premises where there are no buildings or structures.

“**Owner**” has the same meaning as defined in the *Local Government Act*.

“**Premises**” means any lot, block or other area in which land is held or into which it is subdivided.

“**Municipality**” means the Town of Lake Cowichan.

3. **PROHIBITIONS**

- .1 No Owner or Occupier of Real Property shall cause or permit water, rubbish or noxious, offensive or unwholesome matter to collect or accumulate around their premises.
- .2 No person shall deposit or throw bottles, broken glass or other rubbish in any open space.
- .3 No person shall place graffiti on walls, fences or elsewhere on or adjacent to a public place.
- .4 No Owner or Occupier of Real Property shall allow such property to become or to remain unsightly.

4. **REQUIREMENTS**

- .1 Owners or Occupiers of Real Property or their agents shall keep their property clear of brush, noxious weeds or other growths.
- .2 Owners or Occupiers of Real Property or their agents shall prevent infestation of it by caterpillars and other noxious or destructive insects and shall clear the property of such insects.
- .3 Owners or Occupiers of Real Property or their agents shall remove from it any unsightly accumulations of filth, discarded materials, rubbish or Graffiti.

5. **REMEDIAL**

- .1 In default of the Owner or Occupiers of Real Property removing from the Real Property any unsightly accumulation of filth, discarded materials, rubbish or Graffiti, or clearing the property of brush or noxious weeds, or clearing the property of an infestation of caterpillars and other noxious or destructive insects, the Municipality, by its employees or other persons, at reasonable times and in a reasonable manner, may enter on the property and effect compliance at the expense of the Owner or Occupier who has failed to comply and the charges for doing so, if unpaid on December 31 in any year, shall be added to and form part of the taxes payable on that Real Property as taxes in arrear.

6. **INSPECTION**

- .1 Every Inspector is hereby authorized to enter upon any lands and premises in the Municipality at all reasonable times to ascertain whether this bylaw is being observed.

7. **OFFENCE AND FINE**

.1 A person who contravenes this bylaw by doing an act that it forbids or by omitting to do an act that it requires to be done commits an offence and is liable to the penalties prescribed in the *Offence Act*.

8. REPEAL OF PREVIOUS BYLAWS

.1 “Unsightly Premises Bylaw No. 614-1995” and all amendments thereto is hereby repealed.

READ A FIRST TIME on the 26th day of June, 2001.

READ A SECOND TIME on the 26th day of June, 2001.

READ A THIRD TIME on the 26th day of June, 2001.

ADOPTED on the 24th day of July, 2001.

W. J. (Jack) Peake
Mayor

Ed Gilman
Clerk

SCHEDULE 'A'

NOXIOUS WEEDS

Canada Thistle (*Cirsium arvense* (L.) 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