



**DISTRICT OF PORT HARDY
BYLAW NO. 10-2008
CONSOLIDATED**

Amended: Nov. 22/16 Bylaw1059-2016
Amended Sept. 8/20 Bylaw1122-2020
Amended December 14/21 Bylaw 1142-2021

**A BYLAW TO PROHIBIT THE ACCUMULATION OF NOXIOUS, OFFENSIVE OR
UNWHOLESOME MATTER ON PREMISES OR OPEN SPACES**

WHEREAS the Council of the District of Port Hardy deems it necessary and advisable to regulate properties, which have unsightly accumulations of filth, discarded materials, rubbish and graffiti;

NOW THEREFORE the Council of the District of Port Hardy in open meeting assembled enacts as follows:

1. TITLE

This bylaw may be cited as the District of Port Hardy Unsightly Premises Bylaw 10-2008.

2. DEFINITIONS

In this Bylaw, unless the context otherwise requires:

- a) "**ADMINISTRATION**" means the Administration of the District of Port Hardy.
- b) "**BRUSH**" means dense vegetation consisting of shrubs or small trees including their cut or broken branches.

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- c) "**COUNCIL**" means the Municipal Council of the District of Port Hardy.
- d) "**DISCARDED MATERIAL**" includes but is not limited to dilapidated or discarded articles of any kind, including a wrecked vehicle, motor vehicle parts, household furnishings or appliances and scrap or salvage material.
- e) "**DILAPIDATED**" means falling to pieces or in a state of disrepair, broken down, shabby or decrepit.
- f) "**NOXIOUS WEEDS**" means the weeds listed in the regulations of the *Weed Control Act*.
- g) "**OWNER**" includes the lessee, licensee, tenant, caretaker, user or other occupier of a building or a part of a building, or the agent of the owner.
- h) "**PERSON**" includes any corporation, partnership or party and the heirs, executors, administrator or other legal representative or such person to whom the context can apply according to the law and also includes the owner, his agent or the holder of a purchaser's interest in an Agreement for Sale of any real or personal property or premises within the District.
- i) "**REAL PROPERTY**" includes in addition to the common dictionary definition that portion of the right-of-way between the property line and the lines or lateral lines of a roadway.

- j) **"RUBBISH"** includes all discarded, broken or useless items and, without restricting the generality of the foregoing, shall include any and all manner of garbage, old paper or wood products no longer in use or wrecked vehicles.
- k) **"UNSIGHTLY"** shall mean repulsive to the sight or ugly but without restricting the generality of the same, may include:
 - i) The storage of building materials on a site where construction is not taking place;
 - ii) The storage or accumulation of motor vehicles that are not roadworthy or parts thereof;
 - iii) The storage, repairing or servicing of motor vehicles, hauling or construction equipment except where the same is carried out entirely within a building.
- l) **"WRECKED VEHICLE"** means a vehicle that is:
 - i) dilapidated, physically wrecked or disabled so that it cannot be operated by its own mode of power, or
 - ii) a vehicle that is dilapidated or appears to be physically wrecked although it could be operated by its own mode of power but is not displaying thereon a lawful current licence for its operation on a highway.

3. RUBBISH AND LITTER CONTROL

- a) No person shall cause or permit water, rubbish or noxious, offensive or unwholesome matter to collect or accumulate upon or around his or her premises.
- b) No person shall deposit or throw bottles, broken glass or other rubbish in any open place.

4. UNTIDY PREMISES

- a) No owner of real property shall allow such property to become or to remain untidy or unsightly by the accumulation thereon of any filth, discarded material or rubbish of any kind.
- b) The exterior of every Building must be repaired and maintained in a manner that ensures the integrity of the Building envelope to protect the Building from the weather, and from infestations of insects, rodents and other pests, and otherwise does not contribute to visual blight.

This includes the following Building maintenance requirements:

- i. All exterior surfaces must consist of materials that provide adequate protection from the weather;
 - ii. All exterior walls and their components, including coping and flashing, must be maintained in good repair;
 - iii. All exterior walls must be adequately protected against deterioration by the periodic application of paint, stain or other appropriate protective coating;
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- iv. All windows must be in good repair, and properly glazed; and,
- v. All exterior doors to the Building must be operational and fit tightly within their frames when closed.

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- c) It shall be a good and sufficient defense to any prosecution commenced for violations of paragraph 4(a) hereof, for an owner of any commercial establishment to provide evidence that the storage of materials or the accumulation and storage of unroadworthy motor vehicles or parts thereof is an essential part of a legally licensed business.
- d) No owner shall cause or permit their property to become overgrown from out of control grass and weeds.

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5. DEMOLITION SITES

On any property where the demolition of any buildings or structure has taken place;

- a) all debris and material whether to be discarded or retained shall be removed immediately;
- b) any basement or other excavation shall immediately be filled in or covered over to lot grade level.

6. REFUSE ON STREETS

No person shall throw, drop, deposit, leave or let fall any bottle or bottles, cans, glass, wood or refuse of any kind or any object or materials whatever, on or upon any street and the person/s so responsible for such littering on or upon any street shall immediately remove any of such objects or materials on or upon every part of such street.

7. OFFENSIVE GROWTH

Every owner of real property shall upon receipt of notice given pursuant to this bylaw clean such property of brush, grass, weeds and noxious weeds.

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8. FENCES

- a) In any zone where a fence has been erected no person shall allow a fence located on a property of which he or she is the owner to fall into a state of disrepair.
- b) Subject to notice given pursuant to this bylaw where any fence has fallen into a state of disrepair the owner of property upon which the said fence is located shall repair or remove same.

9. GRAFFITI AND POSTINGS

- a) No person shall post, exhibit or distribute placards, playbills, posters, advertising, writings or pictures on walls, fences or elsewhere, on or adjacent to a highway or public place.
- b) No person shall place or permit the placement of graffiti on walls and fences.

- c) Notwithstanding Section 9(a) any person may place posters to advertise public events or garage sales with the requirement that these are removed promptly after the event.

10. NOTICE

Any notice to be given pursuant to this bylaw may be given by an employee of the District and shall be deemed to have been delivered if personally served or if sent by regular Canada Post service.

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11. FAILURE TO COMPLY

If, after the date stated in the notice, the work required to be performed by such notice remains either wholly or partially incomplete, the District shall follow up with a second notice reminding the owner of his or her obligations under this bylaw and a further fourteen (14) days deadline is given.

The period between the first notice and by which the owner is to complete the work required under this bylaw shall not exceed thirty (30) business days after the notice is sent.

In the event of default of an Owner complying with a notice issued under this bylaw, the Municipality, by its employees or others, may enter and effect the removal of any accumulation of filth, discarded materials or rubbish of any kind or may clear the property of brush, noxious weeds or other growth at the expense of the Owner and the charges for doing so, if unpaid on December 31 in any year, shall be added and form part of the taxes payable on that real property as taxes in arrears.

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- i. If an owner of Real Property or other person responsible fails to comply with an Order, Council may make a declaration in accordance with the *Community Charter* requiring that the owner or other responsible person bring the Real Property into compliance with the provisions of the Order within the specified time frame. A Bylaw Enforcement Officer may issue a notice in relation to Council's declaration.
- ii. If the owner or other responsible Person fails to comply with the notice requirement within the time frame specified in the notice, the District by its employees, or others authorized by Council, may, at all reasonable times and in a reasonable manner, enter the Real Property and affect such compliance at the cost of the defaulting owner or other responsible Person. Such cost shall consist of all costs and expenses incurred by the District in affecting compliance with this Part including, without limitation, administrative costs, costs of attendance at the property by District employees or its contractors, and the cost of building repairs, clean up and disposal.
- iii. If the costs incurred by the District for work undertaken or services provided to Real Property are not paid in full on or before December 31 of the year in which the work was undertaken or services provided, the amount owing may be collected as a debt due and recoverable in a court of competent jurisdiction, or in the same manner as for property

taxes, plus an administration fee of fifty (\$50) dollars in accordance with the Community Charter.

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12. RIGHT TO RECONSIDERATION

- a) A person may request that council reconsider a notice by presenting a written request within fourteen (14) days of the date on which the first notice was sent.
- b) If the council receives a notice that complies with subsection (a), it must provide the person with an opportunity to make representation to the council.
- c) The Corporate Officer shall provide council with a report which states the request for appeal of a notice and the terms in which the notice was sent including complaint, photographs and notice letters.
- d) After providing the opportunity referred to in subsection (b), the council may confirm, amend or cancel the requirements set out in the notice.
- e) Upon receipt of appeal to council referred to in section (a), the balance of the thirty (30) business days will continue unless by resolution of council under section (d).

13. ENFORCEMENT AND PENALTIES

Any person who violates the provisions of this bylaw or permits an act or thing to be done in contravention of this bylaw commits an offence punishable on summary of conviction and shall be liable to a fine not less than One Hundred Dollars (\$100) a day for continuing offences and costs and in default thereof.

14. SEVERABILITY

If a court of competent jurisdiction declares any portion of this bylaw invalid, then the invalid portion must be severed and the remainder of the bylaw is deemed valid.

15. REPEAL

Bylaw 982, 1997 is hereby repealed.

READ A FIRST TIME ON THE 27TH DAY OF MAY 2008.
READ A SECOND TIME ON THE 27TH DAY OF MAY 2008.
READ A THIRD TIME ON THE 27TH DAY OF MAY 2008.
ADOPTED BY THE MUNICIPAL COUNCIL ON THE 10TH DAY OF JUNE, 2008

Original signed by:

Director of
Corporate Services

Mayor

Certified to be a true copy of Bylaw No. 10-2008,

Unightly Premises

DIRECTOR OF CORPORATE SERVICES