

THE CORPORATION OF THE CITY OF COURTENAY

BYLAW NO. 2987

A Bylaw of the City of Courtenay to regulate, prohibit, and impose requirements in relation to the abatement of nuisances, and to provide for recovery of the costs of nuisance abatement where undertaken by the City

WHEREAS it is desirable for the protection and enhancement of the well-being of the community to regulate and require the abatement of nuisances in the City;

AND WHEREAS it is undesirable for the costs incurred in the abatement of nuisance on private property to be paid by the public;

AND WHEREAS pursuant to sections 8(3)(h) and 64 of the *Community Charter*, Council has the authority to regulate, prohibit and impose requirements in relation to nuisances;

AND WHEREAS pursuant to section 17 of the *Community Charter*, Council has the authority to direct that if a person subject to a requirement fails to take the required action, the City may fulfill the requirement at the expense of the person and recover the costs incurred from that person as a debt;

AND WHEREAS pursuant to section 194 of the *Community Charter*, Council may, by bylaw, impose fees payable in respect of municipal services and the exercise of regulatory authority.

NOW THEREFORE, the Council of the City of Courtenay, in open meeting assembled, enacts as follows:

PART 1 - INTERPRETATION

1.1 Definitions

In this Bylaw:

“City” means City of Courtenay;

“Council” means the municipal Council of the City of Courtenay;

"Fire Chief" means the person duly appointed as such from time to time and includes any person appointed or designated by the Fire Chief to act on his behalf;

"land" means any lot, block or other area in which land is held or into which it is subdivided and includes any improvement on a parcel but excludes streets, lanes, and municipal parks and public spaces;

"nuisance" means any activity which substantially and unreasonably interferes with a person's use and enjoyment of a highway, park or other public area or of land a person owns or occupies, or which causes injury to the health, comfort or convenience of an occupier of land, and without limiting the generality of the foregoing, includes an activity such as a noisy party, a group of people making noise, loud music, car racing, revving engines, yelling, shouting, screaming, fighting, littering, trespassing, illuminations, vibration, odour, accumulation of water or other liquids on a property, irritations, annoyances, unsanitary conditions on property, or other objectionable situations that in law are a nuisance;

"occupier" means any person who occupies land, or who is qualified to maintain an action for trespass in respect of the land, or who is in possession of the land under a lease, licence, agreement for sale or other agreement with the owner of the land;

"owner" means any person in relation to the land who is the registered owner of an estate in fee simple, the tenant for life under a registered life estate, or the registered holder of the last registered agreement for sale, and in the case of provincial Crown or City owned lands, means the occupier of the land;

"person" includes any company, corporation, owner, partnership, firm, association, society or individual; and

"RCMP" means the Royal Canadian Mounted Police, when providing municipal policing services within the City.

PART 2 – PROHIBITION

2.1 Causing a Nuisance Prohibited

- (a) No person shall cause a nuisance on land he or she owns or occupies.
- (b) No person shall permit land he or she owns or occupies to be used in a manner to cause a nuisance.

PART 3 – NUISANCE ABATEMENT

3.1 Requirement to Abate Nuisance

A person who causes a nuisance or permits land he or she owns or occupies to be used so as to cause a nuisance shall abate or cause to be abated the activity which causes the nuisance.

3.2 Order for Nuisance Abatement

- (a) If a person fails to abate or fails to cause to be abated an activity that causes a nuisance, Council may issue a written order directing that the owner or occupier abate or cause to be abated the nuisance.

- (b) Before Council makes an order under section 3.2(a), the owner or occupier must be provided an opportunity to be heard by Council in respect of the matter.

3.3 City May Abate Nuisance

If an owner or occupier who is subject to an order under section 3.2(a) fails to abate or cause to be abated the activity causing the nuisance, the City, by its employees, contractors and agents, and by the RCMP, may abate or cause to be abated the activity which causes the nuisance in accordance with section 17 of the *Community Charter*.

3.4 Entry on Property

- (a) In accordance with section 16 of the *Community Charter*, the following persons are authorized to enter onto property to inspect and determine whether the requirements of this Bylaw are being met, and to carry out an action authorized under section 3.3 of this Bylaw:

- (i) a member of the RCMP;
- (ii) the Manager of Legislative and Corporate Administrative Services;
- (iii) a Bylaw Enforcement Officer;
- (iv) an Animal Control Officer,
- (v) a Building Inspector;
- (vi) the Fire Chief;
- (vii) the Deputy Fire Chief;
- (viii) the Assistant Fire Chief;
- (ix) a Fire Inspector; and
- (x) a Fire Officer or Fire Fighter.

- (b) For the purposes of carrying out an action authorized under section 3.3 of this Bylaw, Council delegates to the Manager of Legislative and Corporate Services the power to authorize a person, as the City's contractor, to enter onto property in accordance with section 16 of the *Community Charter*.

PART 4 - COST RECOVERY

4.1 Cost Imposition

The City may impose the costs of abating a nuisance in accordance with section 3.3 of this Bylaw on one or more of the following:

- (a) a person causing the nuisance;
- (b) the occupier of land from which the nuisance emanates; and
- (c) the owner of land from which the nuisance emanates.

4.2 Cost Recovery

The City may recover the costs imposed under section 4.1 in accordance with:

- (a) section 231 of the *Community Charter*, as a debt due and recoverable in a court of competent jurisdiction;
- (b) section 258 of the *Community Charter*, in the same manner as property taxes; or
- (c) in any other manner authorized by law.

4.3 Costs Recoverable

The costs recoverable by the City for nuisance abatement under this Bylaw shall be determined and calculated in accordance with Schedule "A" to this Bylaw.

4.4 Offence

A person who contravenes, violates, or fails to comply with any provision of this Bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this Bylaw, or who fails to do anything required by this Bylaw, commits an offence and shall be liable, upon conviction, to a fine of not more than \$10,000.00 (ten thousand dollars) and not less than \$200.00 (two hundred dollars), together with the cost of prosecution and any other penalty or order imposed pursuant to the *Community Charter* or the Offence Act (British Columbia.)

4.5 Continuing Offence

Each day that an offence against this Bylaw continues or exists shall be deemed to be a separate and distinct offence.

PART 5 - GENERAL PROVISIONS

5.1 Severability

If any portion of this bylaw is held to be invalid by a court of competent jurisdiction, the invalid portion may be severed and such invalidity shall not affect the validity of the remaining portions of this bylaw.

5.2 Citation

This bylaw may be cited as the "**Nuisance Abatement and Cost Recovery Bylaw No. 2987, 2019**".

Read a first time this 2nd day of December, 2019

Read a second time this 2nd day of December, 2019

Read a third time this 2nd day of December, 2019

Finally passed and adopted this 16th day of December, 2019

Mayor

Corporate Officer

**CITY OF COURTENAY NUISANCE ABATEMENT
BYLAW NO. 2987, 2019**

SCHEDULE "A"

The costs referred to in section 4.3 of this Bylaw are to be determined in part by multiplying the following hourly rates for the following individuals, vehicles or equipment involved in the abatement of a nuisance by the time spent by those individuals, and the time those vehicles and equipment are used, in the abatement of the nuisance.

(a) Staff and Personnel Cost Recovery

The following hourly rates apply for every hour or part thereof which any of the following City employees and RCMP members use to carry out the abatement of a nuisance where authorized under section 3.3 of this Bylaw. Depending upon the day of the week, the time of day, or the holiday status of when such services are required, the hourly rate may be increased by one and a half or two times.

City Employees	Hourly Rate
Manager of Legislative and Corporate Administrative Services	\$70
Bylaw Enforcement Officer	\$45
Animal Control Officer	\$40
Parking Control Officer	\$38
Building Inspector	\$50
Utilities Foreman	\$50

RCMP	Hourly Rate
Inspector	\$92
Staff Sergeant	\$82
Sergeant	\$78
Corporal	\$74
Constable	\$70

Fire/Rescue	Hourly Rate
Fire Chief	\$80
Deputy Fire Chief	\$70
Assistant Fire Chief	\$70
Fire Inspectors	\$50

(b) Vehicle and Equipment Cost Recovery

The following hourly rates apply for every hour or portion thereof where any of the following equipment and vehicles are used by City employees, RCMP or Fire Department personnel to carry out the abatement of a nuisance where authorized under section 3.3 of this Bylaw. Depending upon the day of the week, the time of day or the holiday status of when such services are required, the hourly rate may be increased by one and a half or two times. Costs imposed to carry out the required work will be subject to a 15% administrative cost recovery fee.

Equipment and Vehicles	Hourly Rate
City Truck and Fire support vehicles	\$18
Single Axle Dump Truck	\$75
Backhoe	\$75
Fire truck with crew (Provincial Rate)	\$595
RCMP Vehicles	\$20

(c) Contractor Cost Recovery

For any work carried out by a contractor of the City to carry out the work required under section 3.3 on behalf of the City, the costs imposed will be the actual cost of the work plus 20% of the contract value.

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