

# THE CORPORATION OF THE CITY OF COURTENAY

## BYLAW NO. 2804

### A bylaw relating to nuisance and disturbances and to the care, maintenance and regulation of property within the City of Courtenay

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

#### DEFINITION:

1. In this bylaw, unless the context otherwise requires:
  - (a) **Authorized Person**” includes the following:
    - (i) a member of the Royal Canadian Mounted Police;
    - (ii) a Bylaw Enforcement Officer;
    - (iii) the Director of Corporate Services and their duly authorized representatives (BYLAW 3079);
    - (iv) any other peace officer.
  - (b) **“Boulevard”** means the area between the curb lines, the lateral lines or the shoulder of a roadway and the adjacent property line.
  - (c) **“City”** means the City of Courtenay.
  - (d) **“Continuous Noise”** means any noise continuing for a period of five minutes or more in any fifteen minute period.
  - (e) **“Graffiti”** means drawing, printing or writing scratched, sprayed, painted or scribbled on a wall or other surface, but does not include a sign for which a permit has been issued by the municipality.
  - (f) **“Independent Sound Consultant”** means a professional engineer, licenced to practice in the Province of British Columbia, with acoustical expertise.
  - (g) **“Intersection”** means the area embraced within the prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of the roadways of the 2 highways which join one another at or approximately at right angles, or the area within which vehicles travelling on different highways joining at any other angle may come in conflict, and, for the purpose of this definition “highway does not include a lane or way less than 5 metres in width separating the rear property lines of parcels of land fronting on highways running more or less parallel to and on each side of the lane or way.

- (h) **“Noise”** includes any loud outcry, clamour, shouting, disturbance or movement or any sound that is loud or harsh or undesirable.
- (i) **“Noxious Weeds”** includes the plant *lythrum salicaria* (Purple Loosestrife) as well as weeds designated as noxious pursuant to the *Weed Control Act*.
- (j) **“Person”** includes any corporation, partnership or party and the personal or other legal representatives of a person, to whom the context can apply according to the law and also includes an owner, the agent of an owner, or the occupier of, or the holder of a purchaser’s interest in an Agreement for Sale, of any real or personal property within the City.
- (k) **“Real Property”** means land, with or without improvements so affixed to the land as to make them in fact and law a part of it.
- (l) **“Roadworthy”** means, when applied to motor vehicles, capable of normal physical operation.
- (m) **“Sidewalk”** means the area between the curb lines or lateral lines of a roadway and the adjacent property lines improved for use of pedestrians.
- (n) **“Unsightly”** includes dirt, gravel, bark mulch or refuse and all discarded, broken or useless items and without restricting the generality of the foregoing, includes old paper or wood products no longer in use or motor vehicles that are no longer roadworthy or parts thereof, and:
  - (i) The storage of building materials on a site where the owner or occupier of the property is not in possession of a valid City building permit.
  - (ii) The storage, cleaning, repairing or servicing of motor vehicles, hauling or construction equipment except where the same is carried out entirely within a building.
  - (iii) Accumulation on residential property of any goods or merchandise which is offered or intended to be offered for sale.

**GRAFFITI, RUBBISH AND LITTER CONTROL**

- 2. (a) No person shall cause or permit stagnant water, rubbish, or any noxious, offensive, or unwholesome matter or substance to collect, or accumulate on or around his real property.
- (b) No person shall deposit or throw bottles, broken glass, or other rubbish, in any open place within the City.
- (c) No person shall place graffiti on walls, fences or elsewhere on or adjacent to private property or a public place in the City.

## **UNSIGHTLY PREMISES**

3. (a) No owner or occupier of real property shall allow such property to become or to remain unsightly by the accumulation thereon of any filth, discarded materials, rubbish or graffiti of any kind.
- (b) An owner or occupier of real property shall forthwith, upon receipt of notice given pursuant to this bylaw, remove all accumulation of filth, discarded materials, rubbish or graffiti.
- (c) Where an owner or occupier of real property fails to comply with a requirement for removal referred to in subsection (b) above, the City by its employees or other persons, at reasonable times and in a reasonable manner, shall enter on the property and effect the removal at the expense of the person who has failed to comply, and that where a person at whose expense removal is carried out does not pay the cost of removal on or before December 31<sup>st</sup> in the year that the removal was done, the cost shall be added to and form part of the taxes payable on the property as taxes in arrears.
- (d) It shall be a good and sufficient defence to any prosecution commenced for violations of paragraph 3(a) hereof, for an owner or occupier of any commercial real property to prove 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 carried on at that real property.

## **NOXIOUS WEEDS OR INSECT INFESTATION:**

4. An owner or occupier of real property shall:
  - (i) keep such property clear of noxious weeds, wild grass and other untended growth; and
  - (ii) prevent infestation by caterpillars and other noxious or destructive insects, and clear such property of caterpillars and other noxious or destructive insects.

## **NOISE**

5. (a) No person shall, make, cause or allow or permit to be made or caused, any noise or sounds in or on a highway or elsewhere in the City which disturb or tend to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of one or more persons in the vicinity.
- (b) No person shall, before 7:00 a.m. on any day from Monday to Saturday when such day is not a Statutory Holiday, or before 8:00 a.m. on any Sunday or Statutory Holiday, and after 10:00 p.m. on any day, construct, erect, reconstruct, alter, repair or demolish any building, structure or thing or excavate or fill in land in any manner

which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood or of persons in the vicinity.

- (c) No person shall, before 7:00 a.m. and after 10:00 p.m. on any day, use or operate any power gardening tool or other power tool or machine.
- (d) No person shall keep or harbour any animal or bird which disturbs or tends to disturb the peace, quiet, rest, enjoyment, comfort or convenience of the neighbourhood by its repeated making of noise.
- (e) No person shall feed pigeons on or about private property and no person shall keep pigeons.
- (f) No person shall play or operate any radio, stereophonic equipment, outdoor public address system or other instrument or apparatus for the production or amplification of sound either in or on private premises or any public place in such a manner as to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity.
- (g) Where it is impossible or impractical to comply with this section, the Council may upon application, give written approval to carry on work that is found to be necessary during designated hours.

Responsibility for obtaining written approval lies with the person carrying on the work.

- (h) No person shall operate any outdoor public address system in the City without first having obtained permission in writing.
- (i) Section 5 does not apply to:
  - (i) any act of repair or maintenance being carried out by employees of contractors of the City, the Ministry of Transportation and Infrastructure or its contractors, or any public utility;
  - (ii) any duly authorized person operating an emergency vehicle or the sounding of a horn or other signaling device upon any vehicle, boat or train where such sounding is properly used as a danger or warning signal;
  - (iii) emergency repairs to buildings, which cannot reasonably be delayed to normal working hours;
  - (iv) the use of bells or chimes by churches, and the use of carillons where such carillons have been lawfully erected;

- (v) any garbage collection service between the hours of 7:00 a.m. and 8:00 p.m. on each day except Sunday;
  - (vi) any parade, procession, performance, concert, ceremony, gathering or meeting in or on any street, or public place, when duly authorized or permitted under the provisions of any bylaw, statute or ordinance in force in the City;
  - (vii) snow clearing; and
  - (viii) any person functioning within the limits imposed by a permit issued by the City, including a Special Event Permit.
6. No person shall create a nuisance to any person who contends their interest in property is affected, including the surrounding residents and general public, by reason of unsightliness, odour emission, dust, noise, smoke, or electrical interference.
7. It shall be a good and sufficient defence to any prosecution commenced for a violation of paragraph 5(b) and paragraph 6, hereof for an owner or occupier of any commercial establishment, including shopping malls, with areas provided for the parking of that general public with a total capacity in excess of 50 parking spaces to establish that:
- (a) The noise or sounds complained of were made in the course of snow clearing or dust clearing operations in the parking areas;
  - (b) That the snow clearing or dust cleaning operations were commenced as soon as practicable after the close of business for the day; and
  - (c) That the snow clearing or dust cleaning was conducted in such manner as to minimize the disturbance of the quiet, peace, rest, enjoyment, comfort or convenience of the inhabitants of neighbouring residential properties.

**NUISANCE SMOKE (BYLAW 3079)**

8. No person shall create or allow the emission of smoke that:
- (a) visibly drifts onto an adjacent property;
  - (b) interferes with a person's use and enjoyment of privately owned real property; or
  - (c) interferes with a person's use or enjoyment of public property including sidewalks, roadways, and parks.

## **COMMERCIAL, INDUSTRIAL OR INSTITUTIONAL OPERATIONS**

9. Every owner, occupier or operator of an industrial or commercial business or institutional operation which generates a Continuous Noise of a level that disturbs the occupants of the neighbourhood or persons in the vicinity shall, at the request of the City, supply the City with:
- (a) a report prepared by an Independent Sound Consultant recommending methods to abate the noise; and
  - (b) a letter of certification sealed by the Independent Sound Consultant that the recommended abatement methods have been fully implemented.

## **SIDEWALK CLEANLINESS**

10. Every owner or occupier of real property within the City shall keep any sidewalk adjoining such real property in a proper state of cleanliness, and shall not place rubbish from the sidewalk onto any highway in the City.

## **ROOF SNOW REMOVAL**

11. As owner or occupier of real property shall remove snow, ice and rubbish from any roof or other part of any structure therein adjacent to any portion of any highway if the snow, ice or rubbish constitutes a hazard to persons or property.

## **FENCES**

12. (a) In any zone, where an owner or occupier of property adjacent to a highway has erected a fence adjacent to that highway, the owner or occupier shall not allow that fence to fall into a state of disrepair.
- (b) An owner or occupier of real property whose fence erected adjacent to a highway has fallen into a state of disrepair shall repair it forthwith upon a receipt of notice given pursuant to this bylaw.
- (c) In every zone where the keeping of livestock is permitted, every owner or occupier of real property abutting upon any highway shall forthwith, upon receipt of notice given pursuant to this bylaw, erect fences along the boundary of that property abutting on the highway for the purpose of preventing his livestock from straying upon said highway.

## **BOULEVARDS/SIDEWALKS**

13. (a) No person shall willfully damage:
- (i) any boulevard, trees, shrubs, plants, bushes or hedge adjacent to any highway;
  - (iii) anything erected or maintained adjacent to a highway for the purpose of lighting the highway; and
  - (iv) any fence erected or maintained adjacent to any highway.
14. Owners or occupiers of real property shall maintain boulevards to the following standards:
- (a) keep free of noxious weeds;
  - (b) keep grass trimmed; and
  - (c) keep shrubs and trees from overhanging pedestrian walkways so as not to interfere with pedestrian and vehicular traffic.

## **VISION CLEARANCE**

15. No person who owns or occupies real property located at any intersection, shall place or permit to be or grow any tree, shrub, plant, fence or other structure with horizontal dimension exceeding .46 metres (1.5 feet) within the triangular area formed by two intersecting lot lines and the line joining the points on such lot lines 2.4 metres (7.87 feet) from the point of intersection, between an elevation such that an eye 1 to 2.4 metres (3.28 feet to 7.87 feet) above the surface elevation of one road, cannot see an object 1 to 2.4 metres (3.28 feet to 7.87 feet) above the surface of the other road.

## **STREET SIGNS**

16. No person shall remove, deface or damage any street name sign or any other sign or marker erected upon any highway by or at the direction of the City.

## **HAZARDOUS TREES AND SHRUBS**

17. (a) If in the opinion of the City, any trees, hedges, bushes or shrubs growing or standing on any real property are:
- (i) a hazard to the safety of persons;
  - (ii) likely to damage public property; or
  - (iii) seriously inconveniencing the public

the City may order such trees, hedges, bushes or shrubs to be trimmed, removed or cut down at the expense of the owners or occupiers of real property on which they grow or stand.

- (b) Before proceeding to exercise the powers conferred by subsection (a), the City shall give notice in writing, by registered mail or personal delivery to the most recent address shown on the current assessment roll requiring the owner or occupier of the lands to remove, cut down, or trim the trees, shrubs, hedges or bushes designated in the notice within fourteen (14) days from date thereof.
- (c) If the City is unable to serve the owner or occupier or real property with the notice under subsection (b), the City may apply to the Supreme Court for an order to serve the notice by substituted service.
- (d) If the person given notice does not take the required action within the time period referred to in subsection (b), the City by its employees or others, may enter the real property and effect that action at the expense of the person given notice.
- (e) If the person referred to in subsection (d) does not pay the costs of the action under that subsection on or before December 31 in the year in which the costs were incurred, the costs shall be added to and form part of the taxes payable on the real property as taxes in arrears.

## **HOUSE NUMBERING**

- 18. All owners and occupiers of buildings shall display in a conspicuous place on the property on which the building is located, the street number assigned by the City to such building so that the same is readable from the highway.

## **DEMOLITION SITES**

- 19. On any property where the demolition of any building or structure has taken place:
  - (a) all debris and material whether to be discarded or retained shall be removed forthwith;
  - (b) any basement or other excavation shall be filled in or covered over to lot grade level forthwith.

## **RIGHT OF ENTRY**

- 20. An authorized person may at all reasonable times, enter upon any property in the City of Courtenay in order to ascertain whether the regulations contained within this bylaw are being obeyed.

## **NOTICES**

- 21. Any notice to be given to this bylaw may be given by an authorized person and shall be sufficiently delivered if personally served upon a person apparently aged 16 years or more

and apparently occupying the real property affected by such notice, or if sent to the owner of the real property by double registered mail to his address appearing upon the last revised assessment roll. All notices hereunder shall be in the form of a letter or shall be in such other forms as the Council may from time to time approve by resolution.

## **FAILURE TO COMPLY**

22. If, after receipt of a notice hereunder excluding notification with regard to snow and ice, the work required to be performed by such notice remains either wholly or partially incomplete, the City may, by its workmen or by any other means it deems fit, enter upon the real property affected by such notice and perform or complete such work at the expense of the owner of such property. The cost incurred by the City in any exercise of its powers hereunder, shall, if not paid by the 31<sup>st</sup> day of December in the year in which they were incurred, be added to and form a part of the taxes payable in respect of that real property as taxes in arrears.

## **ENFORCEMENT AND PENALTIES**

23. This Bylaw is designated under Section 264 of the *Community Charter* as a bylaw that may be enforced by means of a Municipal Ticket Information in the form prescribed.
24. Peace Officers, Bylaw Enforcement Officers, Building Inspectors and the Director of Corporate Services and Manager of Bylaw Services (BYLAW 3079) are designated to enforce this bylaw by means of a Municipal Ticket Information under Section 264 of the *Community Charter*.
25. A person or persons who contravenes, violates or fails to comply with any provision of this bylaw, or who suffer 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, the cost of prosecution and any other penalty or order imposed pursuant to the *Community Charter* (British Columbia) or the *Offence Act* (British Columbia) as amended from time to time. Each day that an offence against this bylaw continues or exists shall be deemed to be a separate and distinct offence.
26. If any section or provision of this bylaw is held to be invalid by a court of competent jurisdiction, the invalid portion shall be severed and the validity of the remainder of the bylaw shall not be affected.
27. This bylaw shall come into full force and effect upon final adoption.
28. Prevention of Public Nuisances Bylaw No. 1798, 1994 is hereby repealed.

29. This bylaw may be cited for all purposes as “Prevention of Public Nuisances Bylaw No. 2804, 2014.

Read first time on this 2<sup>nd</sup> day of September, 2014

Read a second time on this 2<sup>nd</sup> day of September, 2014

Read a third time on this 2<sup>nd</sup> day of September, 2014

Finally passed and adopted on this 8<sup>th</sup> day of September, 2014

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Mayor

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Corporate Officer (BYLAW 3079)