

THE CORPORATION OF THE DISTRICT OF SUMMERLAND

BYLAW NUMBER 90-065

A BYLAW OF THE CORPORATION OF THE DISTRICT OF SUMMERLAND TO PROVIDE FOR THE MAINTENANCE OF PRIVATE PROPERTY, TO PROHIBIT PROPERTIES FROM BECOMING UNSIGHTLY AND TO PROVIDE FOR THE ENFORCEMENT AND ADMINISTRATION OF THE "WEED CONTROL ACT" WITHIN THE DISTRICT OF SUMMERLAND

WHEREAS Section 932(g) of the Municipal Act, Revised Statutes of British Columbia 1979, Chapter 290, and amendments thereto, provides Municipal Council with the authority to prohibit persons from causing or permitting water, rubbish or noxious, offensive or unwholesome matter to collect or accumulate around their premises, or from depositing or throwing bottles, broken glass or other rubbish in any open place;

AND WHEREAS Section 932(h) of the Municipal Act, Revised Statutes of British Columbia 1979, Chapter 290, and amendments thereto, provides Municipal Council with the authority for the purpose of preventing unsightliness on real property by:

- (i) prohibiting persons from placing graffiti on walls, fences or elsewhere on or adjacent to a Public Place, and
- (ii) prohibit the owners or occupiers of real property from allowing their property to become or remain unsightly;

AND WHEREAS Section 932 (h.1) of the Municipal Act, Revised Statutes of British Columbia 1979, Chapter 290, and amendments thereto, provides Council with authority for the purpose of remedying unsightliness on real property by:

- (i) requiring the owners or occupiers of real property, or their agents, to remove from it unsightly accumulations of filth, discarded materials, rubbish or graffiti,
- (ii) providing that, where a person fails to comply with a requirement for removal referred to in subparagraph (i), the municipality, by its employees or other persons, at reasonable times and in a reasonable manner, may enter on the property and effect the removal at the expense of the person who has failed to comply, and
- (iii) providing that, where the person at whose expense removal is carried out under subparagraph (ii) does not pay the costs of the removal on or before December 31 in the year that the removal was done, the costs shall be added to and form part of the taxes payable on the property as taxes in arrear;

AND WHEREAS Section 932(k) of the Municipal Act, Revised Statutes of British Columbia 1979, Chapter 290, and amendments thereto, provides Municipal Council with the authority to require the owners or occupiers of real property, or their agents, to clear the property of brush, trees, noxious weeds or other growths;

NOW THEREFORE the Council of the Corporation of the District of Summerland in open meeting assembled, ENACTS AS FOLLOWS:

1. This bylaw may be cited for all purposes as the "Summerland Property Maintenance, Unsightly Premises, and Weed Control Bylaw 90-065".
2. Definitions for the purpose of this bylaw:
  - (a) "Bylaw Enforcement Officer" means the person so appointed by the Municipal Council.
  - (b) "Council" means the Municipal Council of The Corporation of the District of Summerland.
  - (c) "Graffiti" means writing or pictorial representation placed on walls, fences, buildings or structures applied by writing, scratching, scribbling or painting.
  - (d) "Municipality" means the Municipal area comprised within the boundaries of The Corporation of the District of Summerland.
  - (e) "Noxious Weeds" includes all weeds defined in the "Weed Control Act" and includes:

|                                   |   |                            |
|-----------------------------------|---|----------------------------|
| Canadian Thistle                  | - | Cirsium arvense (L.) Scop. |
| Dodder                            | - | Cuscuta spp.               |
| Russian Knapweed                  | - | Centaurea repens L.        |
| Diffuse Knapweed                  | - | Centaurea diffusa Lam.     |
| Sow Thistle, annual and perennial | - | Sonchus spp.               |
| Toadflax                          | - | Linaria vulgaris Hill      |
| Wild Oats                         | - | Avena fatua L.             |
  - (f) "Order to Comply" means an order substantially in the form of Schedule "A" to this Bylaw.
  - (g) "Person" includes a corporation, partnership or party, and the personal or other legal representatives of a person to whom the context can apply according to law.
  - (h) "Real property" means land, with or without improvements so affixed to the lands as to make them in fact and law a part of it.
3. Prohibitions  
No person:
  - (a) Shall cause or permit water, rubbish or noxious, offensive or unwholesome matter to collect or accumulate around his premises;

- (b) shall deposit or throw bottles, broken glass or other rubbish in any open place;
- (c) being the owner or occupier of real property, shall allow such property to become or remain unsightly, or
- (d) shall cause or permit the placing of graffiti on walls, fences, or elsewhere on or adjacent to a public place.

4. Requirements

Every person who is the owner or occupier of real property or their agent shall:

- (a) ( i) remove from it any unsightly accumulation of filth, discarded materials or rubbish or graffiti of any kind,
  - ( ii) clear it of noxious weeds, and
- (b) ( i) such removal shall be done at a reasonable time and in a reasonable manner.

5. Enforcement

- (a) The Bylaw Enforcement Officer is empowered to administer and enforce this bylaw.
- (b) The Bylaw Enforcement Officer may at all reasonable times enter upon any real property in the Municipality in order to ascertain whether the regulations contained in this bylaw are being obeyed.

6. Order to Comply

Where a person has failed to comply with the provisions of this bylaw, the Bylaw Enforcement Officer may, in accordance with Section (8), issue to such person an Order to Comply, requiring such person to comply with the requirements of this bylaw in respect of which that person is in default, within 14 days of receipt of the Order to Comply.

7. Service of the Order

The Bylaw Enforcement Officer shall serve the Order to Comply:

- (a) on the owner of the real property where the breach of this bylaw exists by:
  - ( i) personal service, or
  - ( ii) return registered mail to the address of the owner shown on the last revised real property assessment rolls;
- (b) on the occupier of the real property where the nuisance exists by:
  - ( i) personal service, or
  - ( ii) delivery to a mail box or other receptacle for messages, if any, on the real property, or
  - ( iii) posting on the real property;

(c) on any agent of the owner or occupier of the real property where the breach of this bylaw exists by:

( 1) personal service, or

( 11) return registered mail;

and when an Order to Comply is not personally served it is deemed to have been received on the third day after mailing or posting.

8. Appeal

A person upon whom an Order to Comply has been served may, by giving notice in writing to the Clerk of the Municipality within seven days of receiving the Order to Comply, appeal to the Municipal Council who shall hear and determine the appeal by confirming, amending or rescinding the Order to Comply.

9. Default

If the obligations imposed by the terms of an Order to Comply as confirmed or amended under Section 9 are not performed by the date therein set out, the Municipality by its employees or other persons at reasonable time, and in a reasonable manner, may enter the real property and perform the obligations at the expense of the person defaulting and the charges for so doing, if unpaid by December 31 of the year in which the work was performed, shall be added to and form part of the taxes payable on that real property as taxes in arrears.

10. Costs

The Bylaw Enforcement Officer shall certify to the Treasurer of the Municipality all costs incurred by the Municipality in performing or causing to be performed any obligations under the bylaw, upon receipt of which the Treasurer shall demand payment by issuing an invoice in the amount of the costs in the same manner as an Order to Comply issued under Section 8.

11. Penalty

Every person who:

(a) violates any of the provisions of this bylaw;

(b) causes, suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this bylaw;

(c) neglects or refrains from doing anything required to be done by any of the provisions of this bylaw;

(d) fails to comply with any order, direction or notice given under this bylaw;


- (e) commits an offence and is punishable in accordance with the Offence Act.
- (2) Each day that a violation is permitted to exist shall constitute a separate offence.

12. Bylaw Number 2399 is hereby repealed.

READ A FIRST, SECOND AND THIRD time this 27th day of August, 1990.

RECONSIDERED, finally read and adopted by the Municipal Council of the Corporation of the District of Summerland, signed by the Mayor and Clerk and sealed with the Corporate Seal of the said Corporation this 10th day of September, 1990.

  
MAYOR

  
CLERK



THE CORPORATION OF THE DISTRICT OF SUMMERLAND

P.O. BOX 159

SUMMERLAND, BRITISH COLUMBIA V0H 1Z0

TELEPHONE 494-6451

SCHEDULE "A"

ORDER TO COMPLY

Pursuant to the Summerland Property Maintenance,  
Unsightly Premises, and Weed Control  
Bylaw Number 90-065

Date: \_\_\_\_\_

TO: \_\_\_\_\_

RE: \_\_\_\_\_

I have investigated the condition of the captioned real property and find that

\_\_\_\_\_

\_\_\_\_\_

The above is a violation of Section \_\_\_\_\_ of the Summerland Property Maintenance, Unsightly Premises, and Weed Control Bylaw.

You are ordered to bring the condition of the real property into conformity with the bylaw by \_\_\_\_\_, by \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Failure to comply with the Order may result in:

- (a) The Municipality proceeding in accordance with the default provisions of Section 9 of the Bylaw; and/or
- (b) The Municipality proceeding in accordance with Section 11 of the Bylaw, the offence section.

If you have any questions regarding this Order, please contact the undersigned.

\_\_\_\_\_  
Bylaw Enforcement Officer

## DISTRICT OF SUMMERLAND

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DATE

Owner/Occupier  
Address

Dear Sir:

Re:      Lot      , Section      , Plan      ,  
         Folio No.

As a result of complaints received in this office, our Building Inspector inspected your property legally described above and located at      Street,      , B.C. and observed an accumulation of rubbish and/or discarded materials, to wit a derelict overturned car body (or what have you).

Under the provisions of the      of  
"Unsightly Premises Bylaw No.      ", it is an offence for owners or occupiers of real property within the      to permit any accumulation of filth, discarded materials or rubbish of any kind on their premises.

I therefore serve this notice and request that you remove and clear the accumulation of filth, discarded materials and rubbish and, in particular, the derelict car body (or what have you ) from your property by (date).

In the event that you fail to comply with this notice within the specified time, I must forthwith file a report with Council for their attention and further action.

I trust that you will cooperate with the District in this regard and see that this matter is resolved to the satisfaction of all concerned.

Yours truly,

Clerk

## DISTRICT OF SUMMERLAND

## UNSIGHTLY PREMISES BYLAW NO. \_\_\_\_\_

Pursuant to the provisions of the "UNSIGHTLY PREMISES BYLAW NO. \_\_\_\_\_" IT IS HEREBY RESOLVED that the owners and occupiers of the respective premises set forth below be notified to remove the accumulation thereon of the materials specified or take such remedial measures as are specified:

PROPERTY DESCRIPTION

Lot \_\_\_\_\_, Section \_\_\_\_\_, Plan \_\_\_\_\_, District \_\_\_\_\_  
Folio No. \_\_\_\_\_

LOCATION

\_\_\_\_\_ Street, \_\_\_\_\_ of \_\_\_\_\_, B.C.

UNSIGHTLY ACCUMULATION

Derelict motor vehicle and empty oil tank

REMEDIAL MEASURES

Clean up the unsightly accumulation

AND BE IT FURTHER RESOLVED that the ( \_\_\_\_\_ Official) of the \_\_\_\_\_ of \_\_\_\_\_ BE AND IS HEREBY AUTHORIZED in default of such removal or remedial measures being undertaken by the owners or occupiers, within (fourteen) 14 days of receipt of notice to do so, to carry out or have such work carried out and the expense charged to the owner or occupier. If unpaid on December 31st in the year in which the work is done, the expenses shall be added to and form part of the taxes payable on that real property as taxes in arrears.

MOVED BY ALDERMAN \_\_\_\_\_

SECONDED BY ALDERMAN \_\_\_\_\_

DATED at \_\_\_\_\_ of \_\_\_\_\_, B.C. this \_\_\_\_\_ day  
of \_\_\_\_\_, 1990.





## DISTRICT OF SUMMERLAND

MEMO

Date

TO: The Mayor and Council

FROM: Building Inspector

RE: Unsightly Premises Bylaw

This department has received complaints regarding the unsightly appearance of property situated at \_\_\_\_\_ Street, \_\_\_\_\_, B.C. legally described as Lot \_\_\_\_\_, Section \_\_\_\_\_, Plan \_\_\_\_\_, District; Folio No. \_\_\_\_\_ registered in the names of (owner/occupier, address).

A letter was forwarded to the owners of the property on \_\_\_\_\_ requesting that the premises be cleaned up of a derelict car body. Since that time, an empty oil tank has appeared on the property and the car body has not been removed.

I request therefore that Council proceed with notice to the owner or occupier giving him or her fourteen days to effect a clean up or the work will be done by the \_\_\_\_\_ or by its authorized agents.

Respectfully submitted,

Building Inspector

Enclosures

CHECKLIST, S. 932(h)

1. Inspect property. Take photos, date and sign, note details of accumulation.
2. Send letter to Owner/Occupier detailing condition of property, cite Bylaw, statutory authority provisions and penalty provisions and direct cleanup within 14 days.
3. On 15th day, inspect again. Note condition of property. Take photos if any change.
4. If not cleaned up or worse, send notice of meeting of Council to consider report by double-registered mail (see form).
5. Prepare report to Council and resolution. See form. Have photos ready.
6. Date of meeting - Clerk should announce the item then Building Inspector makes his report. Mayor should ask if anyone wishes to make response to, give name, address and interest in property and come forward. Council should listen fairly and then make decision. If order to issue, Council should pass resolution - see form.
7. Resolution and letter sent by double-registered mail to Owner/Occupier/agent, with a copy to the mortgagee, giving 14 days to remove accumulation as per resolution. See form of letter.
8. On 15th day inspect again, note condition of property and photograph the same. If not cleaned, have staff or contractor clean up and send account to Owner/Occupier. If not paid by December 31st that year, add as tax arrears.

Prepared by: Wilson, Staples McDannold & Co.  
2nd Floor - 837 Burdett Avenue  
Victoria, British Columbia  
V8W 1B3