

CITY OF MERRITT

BYLAW NO. 2238

GOOD NEIGHBOUR BYLAW

WHEREAS Section 8(3)(h) of the Community Charter provides that Council may regulate, prohibit, and impose requirements in relation to the protection and enhancement of the well-being of the city, including in relation to nuisances, disturbances, and other objectionable situations, as well as in relation to noise, vibrations, and any other matter that is liable to disturb the quiet, rest, enjoyment, comfort, or convenience of individuals or the public;

WHEREAS, Council may, by bylaw, impose and recover costs of nuisance remediation where a person fails to take action as lawfully directed;

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

PART I - INTRODUCTION

1. Citation

1.1 This Bylaw shall be cited as "City of Merritt Good Neighbour Bylaw 2238, 2018."

2. Repeal

2.1 City of Merritt Nuisance Abatement Bylaw No. 2040, 2008 and amendments thereto, are hereby repealed.

2.2 City of Merritt Noise Abatement Bylaw No. 1866, 2004 and amendments thereto, are hereby repealed.

3. Definitions

3.1 In this Bylaw:

"Boulevard" means that area of public property between the property line of private property and the abutting roadway.

"Bylaw Services Officer" means an employee of the City, appointed by Council for enforcement of City bylaws.

"City" means the City of Merritt.

"Construction Noise" means any noise or sound made by the carrying on of works in connection with the construction, demolition, reconstruction, alteration or repair of any building or structure; or the carrying on of any excavation by machinery or heavy equipment; or the moving or operating of any kind of machine, engine or construction equipment.

"Council" means the municipal Council of the City of Merritt.

"Director of Corporate Services" means the municipal officer appointed by Council and assigned responsibility for corporate administration for the City under Section 148 of the Community Charter.

"Derelict Vehicle" means any motor vehicle, or part thereof, which:

- a) is physically damaged, wrecked or disabled;
- b) is not capable of operating under its own power; and
- c) does not have attached number plates for the current year pursuant to the regulations of the Motor Vehicle Act.

"Excessive Nuisance Abatement Fees" include, but are not limited to the following costs and expenses incurred while responding to a Nuisance Service Call for the purpose of abating nuisance conduct, activity or conditions:

- a) the cost of police and City staff salaries, including all fringe benefits;
- b) the cost of using police, fire and City equipment and vehicles;
- c) the cost of repairs to damaged City equipment, vehicles or property.

"Lane" means the dedicated roadway abutting the side or rear of any Property.

"Noxious Weeds" means those weeds listed in the regulations to the Weed Control Act.

"Nuisance Property" means a Property for which the owner has received notice of Nuisance Property designation in accordance with section 14.4 of this Bylaw and which is not otherwise excluded by virtue of sections 14.2 and 14.3 of this Bylaw.

"Nuisance Service Call" means a City or police response, including any abatement thereof, to any nuisance or other activity, conduct or condition occurring on or near real property which substantially and unreasonably interferes with another person's use and enjoyment of a Public Place or of real property occupied by that person, or which causes injury to the health, comfort or convenience of an occupier of real property.

"Person" includes any company, corporation, owner, partnership, firm, association, society or party.

“Property” means all real property, including, but not limited to, front yards, side yards, backyards, driveways, walkways, Lanes, Boulevards and sidewalks, together with any and all structures or fences located thereon.

“Public Place” includes every roadway, lane, bridge, highway, park, or other places which the public has access to as a right or by invitation, express or implied.

“Rubbish” means decaying or non-decaying solid and semi-solid wastes, including, but not limited to, both combustible and non-combustible wastes, such as the following:

- a) paper, trash, refuse, cardboard, waste material, cans, glass, bedding, mattresses, crates, rags, barrels, carpeting, boxes, lumber not neatly piled;
- b) scrap iron, tin and other metal;
- c) scrap paving material, construction and demolition waste;
- d) Derelict Vehicles, tires, machinery, mechanical or metal parts;
- e) discarded or dilapidated appliances or furniture;
- f) ashes from fireplaces and on-site incinerators;
- g) yard clippings and brush, wood, dry vegetation, dirt, weeds, dead trees and branches, stumps, overgrown vegetation and trees which may harbor insect or rodent infestations or may become a fire hazard, animal feces, and piles of earth mixed with any of the above.

“Unightly” in addition to its common dictionary meaning and regardless of the condition of other properties in the neighbourhood, includes, but is not limited to:

- a) the accumulation of filth, discarded materials or Rubbish of any kind;
- b) the untidy placement, storage or accumulation of building materials on a site where construction is not taking pace, except where they are not visible from a public highway or nearby Property;
- c) the accumulation of mechanical equipment including bulldozers, graders, backhoes or other similar heavy construction equipment on any site in the City where such site is not zoned for such use;
- d) fences characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting, or any other evidence of physical decay or neglect or excessive use or lack of maintenance;

- e) landscaping that is dead, damaged, or characterized by uncontrolled growth or lack of maintenance;
- f) a lowering in quality of the condition or appearance of a structure or parts thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay or neglect or excessive use or lack of maintenance;
- g) any other similar conditions of disrepair, dilapidation, or deterioration.

4. Severability

- 4.1 If any section, subsection, sentence, clause or phrase of this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, the invalid portion shall be severed and shall not affect the validity of the remainder.

5. Interpretation

- 5.1 Words defined in the Motor Vehicle Act, RSBC 1996 C. 318 shall have the same meaning when used in this Bylaw unless the context otherwise requires.

PART II – NOISE REGULATION

6. Prohibitions

- 6.1 No person shall make or cause, or permit to be made or caused, any noise or sound in or on a highway or elsewhere in the City which disturbs, or tends to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood, or of persons in the vicinity.
- 6.2 Without limiting the generality of section 6.1, no person shall:
 - a) except in the case of an emergency, use an engine brake of any kind (including a brake commonly known as a “Jacobs” brake) to slow or stop a motor vehicle on a highway within the municipality;
 - b) allow an animal or bird under the control of, or owned by the person, to make any kind of sound continuously or sporadically for any period of more than fifteen (15) minutes;
 - c) operate any form of public address system in the City, including megaphones or voice amplification equipment, without first obtaining a permit from the City for that purpose.

7. Construction hours

- 7.1 No person in the City shall make Construction Noise on any day before 7:00 a.m. or after 10:00 p.m. which disturbs, or tends to disturb, the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood, or of persons in the vicinity.
- 7.2 Where it is impossible or impracticable to comply with section 7.1, a person must make an application to the Director of Engineering and Development, who may, at their sole discretion, give approval in writing to carry on Construction Noise outside of the permitted hours.
- 7.3 Any application made under this section must be made at least 48 hours prior to the intended commencement of construction.

8. Exclusions

- 8.1 Notwithstanding any provisions of this Bylaw, a person may perform works of an emergency nature for the preservation or protection of life, health or property, but the onus shall be on the person performing the work to show cause that the work was of an emergency nature.
- 8.2 Nothing in this Bylaw shall preclude any act of maintenance or repair being carried out by employees or contractors of the City, the Ministry of Transportation and Infrastructure or any public or private utility company.
- 8.3 This Bylaw does not apply to police, fire or other emergency vehicles and equipment in an emergency situation.
- 8.4 The prohibitions contained in section 6 of this Bylaw do not apply to lands zoned M2, "Heavy Industrial" under the City's Zoning Bylaws.

PART III – PROPERTY MAINTENANCE

9. Regulation of Unsightly Properties

- 9.1 No owner or occupier of Property shall cause or permit the Property to become or remain Unsightly.
- 9.2 Without limiting the generality of section 9.1, an owner or occupier of Property must not cause, permit, or allow on or around the Property:
 - a) unsanitary conditions or an accumulation of other offensive or unwholesome materials, substances, or objects;
 - b) an accumulation of standing water;

- c) an accumulation of Noxious Weeds;
 - d) graffiti;
 - e) more than two (2) unlicensed motor vehicles, except where the Property is zoned for such storage;
 - f) an infestation of caterpillars, termites or other noxious or destructive insects or rodents.
- 9.3 Without limiting the generality of section 9.1, in respect of a Property for which a building permit has been issued by the City, no Person shall cause, permit, or allow demolition waste, construction waste, or trade waste to accumulate on the Property.

10. Snow Removal Regulations

- 10.1 Every owner or occupier of residential zoned property shall remove snow or ice from sidewalks or pathways abutting the said property within twenty-four (24) hours of accumulation.
- 10.2 Every owner or occupier of real property shall immediately remove snow, ice or Rubbish from the roof or other part of a structure adjacent to a highway or pathway or sidewalk where such snow, ice or Rubbish presents a hazard to vehicular or pedestrian traffic.
- 10.3 Every owner or occupier of commercial or industrial zoned property shall remove snow or ice from sidewalk or pathways abutting the said property by 10:00 a.m. and additionally as needed, following the accumulation of snow or ice.

PART IV – COMPLIANCE ORDERS AND COST RECOVERY

11. Compliance Orders

- 11.1 If, in the opinion of a Bylaw Services Officer, the owner or occupant of a Property fails to comply with a requirement of this Bylaw, the Bylaw Services Officer may issue a compliance order requiring the owner or occupant to bring the Property into compliance with the Bylaw within such time as the Bylaw Services Officer considers appropriate in the circumstances.
- 11.2 A compliance order must state:
- a) the civic address of the subject real property;
 - b) the legal description of the subject real property;

- c) the particulars of the non-compliance to be remedied and the specified time by which that non-compliance must be remedied; and
- d) that if the owner or occupant fails to comply with the terms of the compliance order within the time specified, the City may, without further notice, at all reasonable times and in a reasonable manner, enter the Property and carry out the work required at the cost of the defaulting owner or occupier; the cost of such work will be added to the taxes of the real property.

11.3 Service of a compliance order is deemed sufficient:

- a) for an owner, on the day on which it is personally delivered, or on the fifth business day after being mailed by regular post to the address shown on the current year's property assessment roll; and
- b) for an occupant, on the day on which it is personally delivered, or the day on which it is posted on the Property, or on the fifth business day after being mailed by regular post to the address of the Property.

11.4 Service of an compliance order in relation to snow removal is deemed sufficient if a copy of the order:

- a) is personally served to the owner or, where the forgoing is impossible or impracticable, mailed by regular post to the owner of the real property as shown on the current year's property assessment roll; and
- b) is posted on the real property or, where the forgoing is impossible or impracticable, delivered or mailed by regular mail to the occupier of the real property.

12. Remedial Work

- 12.1 If the owner or occupant fails to comply with the terms of a compliance order within the time period set out therein, the City, by its employees, agents, or contractors, may at all reasonable times and in a reasonable manner, enter the Property and bring about such compliance at the cost of the occupant and/or owner of the Property from which the non-compliance with this Bylaw arises.

13. Cost Recovery

- 13.1 The owner and/or occupant shall be required to pay the actual costs incurred by the City to remedy the non-compliance, which costs shall include but are not limited to, the costs of City employees and contractors attending the Property with any necessary equipment, plus an administrative fee of fifteen (15%) percent.

- 13.2 If an owner or occupier fails to pay for costs invoiced in accordance with section 13.1 by the 31st day of December in the year in which the costs were incurred, the amount invoiced will be added to and form part of the taxes payable in respect of that Property as taxes in arrears.

PART V – NUISANCE PROPERTIES

14. Nuisance Property Designation

- 14.1 The Director of Corporate Services may declare a Property to be a Nuisance Property by providing notice to the owner of the Property in accordance with section 14.4 and in the following circumstances:
- a) where more than one Nuisance Service Call has been received within a twenty-four (24) hour period; or
 - b) where more than three Nuisance Service Calls have been received within a twelve (12) month period.
- 14.2 The Nuisance Property designation will remain on the Property until such time as there is a period of twelve (12) consecutive months wherein there are no Nuisance Service Calls in relation to the Property.
- 14.3 Notwithstanding section 14.2, where legal title to a Property is transferred, the Nuisance Property designation shall be removed, subject to the following conditions:
- a) the new owner shall be liable for all unpaid Excessive Nuisance Abatement Fees imposed against the Property in respect of past Nuisance Service Calls;
 - b) any Nuisance Service Calls made before the date that the new owner obtains legal title to the Property will not be considered for any Nuisance Property determination.
- 14.4 Before imposing Excessive Nuisance Abatement Fees, written notice shall first be provided to the owner of the Property, which notice shall state:
- a) that the Property has been designated as a Nuisance Property until such time as there is a period of twelve (12) consecutive months wherein there are no Nuisance Service Calls in relation to Property;
 - b) in reasonable detail, the nature of the nuisance conduct, activity, or condition that occurred, was maintained, or permitted in, on, or near the Property; and

- c) advising the owner that Excessive Nuisance Abatement Fees will be imposed for each additional Nuisance Service Call to the same Property and that the imposition of such fees is in addition to the City's right to seek other legal remedies or actions for abatement of the nuisance.
- 14.5 Service of the notice referred to in Section 14.4 is deemed to be given on the day on which it is personally delivered to the owner or on the fifth business day after being mailed by regular post to the address shown on the current year's property assessment roll.
- 14.6 Where a police officer, Bylaw Services Officer, volunteer fire fighter, or other City employee is required to respond to a Nuisance Service Call at a Nuisance Property, the owner of the Property shall be liable to pay Excessive Nuisance Abatement Fees, plus an administrative fee of fifteen (15%) percent.
- 14.7 Excessive Nuisance Abatement Fees must be paid by the owner on receipt of a demand for payment from the City. If the amount of each demand is not paid in full before the 31st day of December in the year received, upon written notice to the owner, the City may either:
- a) recover the Excess Nuisance Service Call Fees from the owner or occupier of the Property, in any court of competent jurisdiction, as a debt due to the City; or
 - b) direct that the amount of the Excessive Nuisance Abatement Fees be added to and form part of the property tax roll as a charge imposed in respect of work done or services provided to the Property of the owner.

PART VI – RECONSIDERATION

15. Reconsideration by Council

- 15.1 A person may request that Council reconsider:
- a) the issuance or terms of a compliance order;
 - b) recovery of costs for remedial work performed by the City or it's contractors pursuant to section 13
 - c) a demand for payment of Excessive Nuisance Abatement Fees;
- by submitting a written request for reconsideration to the City's Director of Corporate Services in accordance with Section 15.2 of this Bylaw.

- 15.2 All requests for reconsideration must:
- a) be submitted in writing to the Director of Corporate Services within:
 - (i) ten (10) days of the compliance order being served in accordance with Section 5.3 of this Bylaw; or
 - (ii) ten (10) days when of the demand for payment for Excessive Nuisance Abatement Fees or remedial work performed pursuant to section 13 of this Bylaw, is issued by the City;as the case may be; and
 - b) include a description of the grounds upon which the request for Council reconsideration is made.
- 15.3 Upon receipt of a compliant written request for reconsideration, the Director of Corporate Services shall schedule the time, date, and place for Council to hear the matter.
- 15.4 Upon reconsidering the issuance or terms of a compliance order or a demand for payment of Excessive Nuisance Abatement Fees issued under this Bylaw, Council may confirm, set aside, or alter the order or demand, as it may deem appropriate in the circumstances.

PART VII – ENFORCEMENT AND PENALTIES

16. Right of Entry

- 16.1 The Bylaw Services Officer is authorized, at all reasonable times, to enter on any property in order to ascertain whether the regulations contained within this Bylaw are being observed.
- 16.2 No owner or occupier of real property shall hinder or obstruct the Bylaw Services Officer in the performance of their duties.

17. Penalty

- 17.1 Every person who violates a provision of this Bylaw or who permits any act or thing to be done in contravention of this Bylaw, or who fails to do any act or thing required by this Bylaw, shall be deemed to have committed an offence against this Bylaw and:
- a) shall be liable to a fine set out in the City of Merritt Municipal Ticket Information Bylaw 2044, 2009, as amended from time to time; or

- b) where a specific penalty has not otherwise been designated, shall be liable to a fine and/or penalty provided under the *Community Charter* of not less than One Hundred Dollars (\$100) and not more than Ten Thousand Dollars (\$10,000), plus the costs of prosecution, and any other order imposed pursuant to the *Community Charter*, or
- c) to pay any fees prescribed for the particular non-compliance set out in this Bylaw; or
- d) any combination of the above.

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

17.3 Any penalty imposed pursuant to this Bylaw shall be in addition to and not in substitution for any other penalty or remedy imposed pursuant to this Bylaw, along with any other applicable statute, law, or legislation.

Read a First Time this 28th Day of August, 2018

Read a Second Time this 28th Day of August, 2018

Read a Third Time this 28th Day of August, 2018

Adopted this 18th Day of September, 2018

**Original signed by
Neil Menard,
MAYOR**

**Original signed by
Sean Smith,
CORPORATE OFFICER**