



The Corporation of the District of North Cowichan

Nuisance Abatement and Cost Recovery Bylaw

Bylaw No. 3804

[Consolidated and printed by authority of the Corporate Officer under The Corporation of the District of North Cowichan Consolidation and Revision Authority Bylaw 3514. Current to June 3, 2021. Last amended June 2, 2021. Amendments: 3832]

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WHEREAS, under Sections 8 and 64 of the *Community Charter*, Council may, by bylaw, regulate, prohibit and impose requirements in relation to nuisances; and

WHEREAS, under Sections 17 and 194 of the *Community Charter*, Council may impose costs and recover the costs of taking action in the event of a default by a person who fails to take action as Council directs:

NOW THEREFORE the Council of The Corporation of the District of North Cowichan, in open meeting assembled, enacts as follows:

PART 1 CITATION

- 1.1. This bylaw may be cited as "Nuisance Abatement and Cost Recovery Bylaw No. 3804, 2020".

PART 2 SEVERABILITY

- 2.1. If a portion of this bylaw is found invalid by a court, it will be severed and the remainder of the bylaw will remain in effect.

PART 3 DEFINITIONS

- 3.1 In this bylaw,
"NOXIOUS WEED" shall include:

- Blueweed (*Echium vulgare*);
- Garlic Mustard (*Alliaria petiolata*);
- Giant Hogweed (*Heracleum mantegazzianum*);
- Gorse (*Ulex Europaeus*);
- Knotweeds (*Fallopia spp. and Polygonum spp.*);
- Poison Hemlock (*Conium maculatum*); and
- Wild Chervil (*Anthriscus sylvestris*). [BL3832]

“NUISANCE” means:

- (a) noise, vibration, odour, dust, illumination or any other matter that is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public;
- (b) the emission of smoke, dust, gas, sparks, ash, soot, cinders, fumes or other effluvia that is liable to foul or contaminate the atmosphere;
- (c) refuse, garbage or other material that is noxious, offensive or unwholesome;
- (d) the accumulation of water on property;
- (e) unsanitary conditions on property;
- (f) overgrown grass, weeds or trees;
- (g) the carrying on of a noxious or offensive business activity;
- (h) graffiti and unsightly conditions on property; and
- (i) indecency and profane, blasphemous or grossly insulting language; and
- (j) anything which constitutes a nuisance at law.

“WEED CONTROL OFFICER” means the person appointed by the Director of Engineering in accordance with the Delegation of Authority Bylaw. [BL3832]

PART 4 PROHIBITIONS

- 4.1. No person shall do any act or cause any act to be done which constitutes a nuisance.
- 4.2. No owner or occupier of real property shall cause or permit a nuisance on that real property.
- 4.3. Every owner or occupier who is required to take action under a Weeds, Graffiti and Litter Order or a Clean Up Order shall comply with that order.

PART 5 NUISANCE ABATEMENT

- 5.1. A person in contravention of sections 4.1 or 4.2 of this bylaw shall abate or cause to be abated the nuisance.
- 5.2. If a Bylaw Compliance Officer determines that real property contains grass, weeds or trees that are overgrown, graffiti or strewn litter, the Manager of Bylaw and Business Licensing Services may issue a Weeds, Graffiti and Litter Order. [BL3832]

5.2.1 If a Weed Control Officer determines that real property contains Noxious Weeds present or growing thereon, the Weed Control Officer shall give notice writing to the owner or occupier of such condition and require the owner or occupier to comply with the provisions set out under the *Weed Control Act* and *Weed Control Regulation* (BC Reg. 66/85) within no less than 5 business days from the date of such notice. [BL3832]

5.3. A Weeds, Graffiti and Litter Order must:

- (a) be in writing;
- (b) identify the person who must fulfill the requirement;
- (c) be posted in a conspicuous location on the property;
- (d) be sent by regular mail to the owner's address;
- (e) be sent by regular mail to the occupier of the property if the occupier is the person who must fulfill the requirement;
- (f) provide the owner or occupier of the property with no less than 5 business days to fulfill the requirement after the date the Weeds, Graffiti and Litter Order was posted on the property and sent;
- (g) advise that a person may request that the Manager of Fire and Bylaw Services reconsider the Weeds, Graffiti and Litter Order in accordance with this Bylaw; and
- (h) advise that upon default, the District may fulfil the requirement set out in the Weeds, Graffiti and Litter Order and seek recovery of the cost under section 17 of the *Community Charter*.

5.4. A person may request that the Manager of Fire and Bylaw Services reconsider a Weeds, Graffiti and Litter Order by delivering written submissions regarding the request to the District's corporate officer at least two days prior to the expiration of the time for compliance set out in the Weeds, Graffiti and Litter Order and providing an e-mail or postal address to which the response of the Manager of Fire and Bylaw Services should be sent.

5.5. If a timely request for reconsideration of a Weeds, Graffiti and Litter Order is made, the Manager of Fire and Bylaw Services may do any of the following:

- (a) affirm the Weeds, Graffiti and Litter Order;
- (b) cancel the Weeds, Graffiti and Litter Order;
- (c) affirm and extend the time for compliance with the Weeds, Graffiti and Litter Order; or
- (d) modify the Weeds, Graffiti and Litter Order to accommodate a request by the affected person.

5.6. If a Bylaw Compliance Officer determines that a nuisance, other than a nuisance that may be the subject of a Weeds, Graffiti and Litter Order, exists on real property, the Manager of Bylaw and Business Licensing Services may issue a Clean Up Order. [BL3832]

5.7. A Clean Up Order must:

- (a) be in writing;

- (b) identify the person who must fulfill the requirement;
- (c) be personally served on or sent by registered mail to the owner of the property at the owner's address;
- (d) be personally served on or sent by registered mail to the occupier, if the occupier of the property is the person must fulfill the requirement;
- (e) be sent by regular mail to the occupier of the property if:
 - (i) the address of the property is different from the owner's address; and
 - (ii) the owner of the property is the person who must fulfill the requirement;
- (f) be sent by regular mail to each holder of a registered charge in relation to the property whose name is included on the assessment roll, if any, at the address set out in that assessment roll and to any later address provided to the District;
- (g) be posted in a conspicuous place on the property;
- (h) provide the owner or occupier with no less than 30 days to fulfill the requirement after the date the Clean Up Order was posted on the property and sent;
- (i) advise that a person may request that Council consider the Clean Up Order in accordance with this bylaw; and
- (j) advise that, upon default, the District may fulfil the requirement set out in the Clean Up Order and seek recovery of the cost under section 17 of the *Community Charter*.

- 5.8. If the Manager of Bylaw and Business Licensing Services concludes that a person is evading receipt of a Clean Up Order, the Manager of Bylaw and Business Licensing Services may request that Council, by resolution, authorize steps to be taken to deliver notice to that person as an alternative to compliance with section 5.7(c) or (d) of this bylaw. [BL3832]
- 5.9. A person may request that Council reconsider a Clean Up Order by delivering a request in writing to the District's Corporate Officer at least two weeks prior to the expiration of the time for compliance set out in the Clean Up Order.
- 5.10. If a timely request for reconsideration of a Clean Up Order is made, Council must hear the representations of the requestor at a Council meeting and may do any of the following:
- (a) affirm the Clean Up Order;
 - (b) cancel the Clean Up Order;
 - (c) affirm and extend the time for compliance with the Clean Up Order; and
 - (d) modify the Clean Up Order to accommodate a request by the affected person.
- 5.11. If an owner or occupier fails to comply with a Clean Up Order or a Weeds, Graffiti and Litter Order, the District may, by its employees, contractors and agents, enter onto the property and take action in accordance with section 17 of the *Community Charter* and fulfil the requirements of the order. The District may recover the cost of such action on default, including administrative costs equal to 15% of the value of all contractor and agent invoices, from the person subject to the order and if such costs remain unpaid by December 31 of the year in which they are owing, such costs may be recovered as property taxes in arrears in accordance with Part 14 of the *Community Charter*.

- 5.12. The District may charge for work performed under section 5.11 by employees of the District at the hourly rates set out in the Fees and Charges Bylaw, as revised or replaced from time to time.
- 5.13. If the District's action on default includes the removal of one or more items from a property, the Manager of Bylaw and Business Licensing Services may, as the Manager of Bylaw and Business Licensing Services considers reasonable given the nature, condition and market value of each item:
- (a) dispose of the item;
 - (b) sell the item for salvage and credit the money received against the cost of acting on default;
 - (c) auction the item and credit the money received against the cost of acting on default; or
 - (d) place the item into storage until the item is collected or abandoned. [BL3832]
- 5.14. 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 5.11 of this bylaw:
- (a) a member of the RCMP;
 - (b) the Manager of Fire and Bylaw Services;
 - (c) a Bylaw Compliance Officer;
 - (d) a Building Inspector;
 - (e) the Chief Building Inspector;
 - (f) the Fire Chief;
 - (g) the Deputy Fire Chief;
 - (h) a Fire Fighter;
 - (i) the Manager of Bylaw and Business Licensing Services; and [BL3832]
 - (j) a Weed Control Officer. [BL3832]

PART 6 COSTS IMPOSITION

- 6.1. The District may impose the costs of abating a nuisance on one or more of the following:
- (a) The occupier of land from which the nuisance emanates; and
 - (b) The owner of land from which the nuisance emanates.

PART 7 COLLECTION

- 7.1. The District may recover the costs imposed under Section 6 in accordance with:
- (a) Section 231 of the *Community Charter* as a debt due and recoverable in a court of competent jurisdiction; or
 - (b) Section 258 of the *Community Charter* as property taxes.

PART 8 COSTS

- 8.1. The costs recoverable for nuisance abatement are set out in the Fees and Charges Bylaw, as revised or replaced from time to time.

PART 9 OFFENCE AND PENALTY

- 9.1. Every person who contravenes any provisions of this bylaw commits an offence punishable upon summary conviction and is liable to a fine not exceeding \$10,000.00.
- 9.2. If an offence is a continuing offence, each day that the offence is continued constitutes a separate and distinct offence.

PART 10 REPEAL

- 10.1. Bylaw 2590, Untidy and Unsightly Premises Bylaw, 1992, and all amendments thereto, are hereby repealed.

Read a first, second and third time on December 2, 2020
Adopted on December 16, 2020