

TOWN OF PORT MCNEILL

BYLAW NO. 571.1, 2006

A Bylaw to provide for the Regulation of Miscellaneous Nuisances

WHEREAS Section 8 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 its community in relation to the matters referred to in section 64 of the Community Charter (nuisances, disturbances and other objectionable situations); and

WHEREAS Section 17 of the Community Charter provides the authority of a council to take Municipal action at the defaulter's expense; and

WHEREAS Section 64 of the Community Charter provides that the authority of council may be exercised in relation to nuisances; 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; refuse, garbage or other material that is noxious, offensive or unwholesome; the use of waste disposal and recycling services; the accumulation of water on property; unsanitary conditions on property; drains; trees, weeds or other growths that a council considers should be removed, cut down or trimmed; graffiti and unsightly conditions on property;

NOW THEREFORE the Council of the Town of Port McNeill in open meeting assembled, ENACTS AS FOLLOWS:

1. DEFINITIONS:

In this Bylaw, unless the context otherwise requires:

- a. **Bylaw Enforcement Officer** means a member of the Royal Canadian Mounted Police, a peace officer, a municipal employee or any person or persons appointed from time to time by Council to enforce certain Bylaws of the Town of Port McNeill;
- b. **Council** means the Town Council of the Town of Port McNeill;
- c. **Highway** includes a street, road, lane, bridge, viaduct, and any other way open to public use, but does not include a private right-of way on private property;
- d. **Noise** means a sound, especially one that is loud, harsh, or undesirable.
- d. **Noxious Insects** include bees and caterpillars;
- e. **Noxious Weed** means any plant or weed designated under the Weed Control Act;

- f. **Property** means real property and includes, land, other than a highway, together with all improvements which have been so affixed to the land as to make them in fact and in law a part thereof.

2. NOISE

- a. No person shall make or cause, or permit to be made or caused, in or on a highway or elsewhere in the Municipality, any noise or sound which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of two or more persons who are present on two or more residential parcels.
- b. No owner, tenant or occupier of real property shall allow that property to be used so that a noise or sound which originates from that property disturbs the quiet, peace, rest, enjoyment, comfort or convenience of two or more persons who are present on two or more residential parcels.
- c. No person shall keep any animal which by its calls, cries, barks, or other noises disturbs the quiet, peace, rest, enjoyment, comfort, or convenience of two or more persons who are present on two or more residential parcels.
- d. Without limiting Sections “3a” to “3c” of this bylaw, no person shall make or cause to be made, or permit to be made or caused, the following noises or sounds:
 - i) Any calls, cries, barks, or other noises made by an animal which are audible outside the property where the animal is kept, between the hours of 10:00 p.m. and 7:00 a.m.; and
 - ii) Any amplified music or speech which is audible outside the property where it originates or is reproduced, including from within a motor vehicle, between the hours of 10:00 p.m. and 7:00 a.m.;
 - iii) Any noise caused or emanating from construction activity, including alterations, demolitions, and excavating between the hours of 10:00 p.m. and 7:00 a.m.;
 - iv) Any noise longer than 15 minutes caused or emanating from the operation of a parked or stopped vehicle or reefer between 10:00 p.m. and 7:00 a.m.
- e. Exemption
This bylaw does not apply to:
 - i) Police, fire or other emergency vehicles proceeding upon an emergency;
 - ii) The excavation, construction, or infrastructure work, or repairing of bridges, streets, highways, or lands by the Town or agents acting on its behalf;

- iii) The operation of maintenance equipment by the Town or agents acting on its behalf;
- iv) Snow removal or highway cleaning operations;
- v) The erection, demolition, construction, reconstruction, alteration or repair of any building or structure between the hours of 7:00 a.m. and 10:00 p.m.;
- vi) The operation of a public address system or communications system required under a building code, fire code or Worksafe BC requirement;
- vii) A lawnmower, power gardening equipment or chainsaw operated between the hours of 7:00 a.m. to 10:00 p.m.;
- viii) A horn from a motor vehicle, boat or train where it is necessary to warn of danger or a hazard;
- ix) An event approved by resolution of Council provided it is within the terms of that approval – i.e.: hours of operation.

3. NUISANCES AND UNSIGHTLY PREMISES

No owner shall cause, allow or permit a parcel to become or to remain unsightly, and, without limitation:

- a. No owner of a parcel shall cause, allow or permit the accumulation of building material on the parcel unless
 - (i) The owner or occupier of the parcel is in possession of a valid building permit in respect of the accumulation; or
 - (ii) The accumulation is stored in a closed building or structure such that the accumulation is not visible from another parcel or highway;
- b. No owner of a parcel shall cause, allow or permit the storage or accumulation on the parcel of all or part of a vehicle, as defined in the Motor Vehicle Act, which is not;
 - (i) Validly registered or licensed in accordance with the Motor Vehicle Act; or
 - (ii) Capable of movement under its own power unless it is stored in a closed building or structure such that the vehicle, or any portion of a vehicle, is not visible from another parcel or a highway;

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- c. No owner of a parcel shall cause, allow or permit the accumulation on the parcel of water, filth, discarded materials, rubbish, or noxious, offensive, or unwholesome matter or rubbish of any kind, whether or not for commercial purposes or as part of a trade or calling, including but not limited to dead animals, paper products, crockery, glass, metal, plastics, plastic containers, wire, ropes, machinery, tires, appliances, and any other scrap or salvage;
- d. No owner of a parcel shall cause, allow or permit the accumulation on the parcel of garbage not contained in a covered receptacle;
- e. No owner or occupier of real property, or their agents, shall fail to clear such property of brush, trees, noxious weeds, or other growths when directed to do so by the Town of Port McNeill.
- f. No owner or occupier of real property, or their agents, shall permit infestations of caterpillars or other noxious or destructive insects to be on such property.
- g. No owner of a parcel shall cause, allow or permit the presence of graffiti, whether in the form of pictures or words, on the parcel or on the surface of a structure on the parcel;
- h. Where an owner or occupier of real property, or their agents, fails to comply with these provisions,
 - i. The Town of Port McNeill, by its employees or other persons, at reasonable times and in a reasonable manner, may enter on the property and effect a remedy.
 - ii. where that owner or occupier or their agents fail to pay the costs of the remedy on or before December 31 in the year that the remedy was effected, the unpaid costs shall be added to and form part of the taxes payable in respect of that real property as taxes in arrears.
- j. No owner or occupier of a parcel shall foul, obstruct or impede the flow of any waterway within the boundaries of the Town of Port McNeill.
- k. No person shall cause an obstruction of any sidewalk, boulevard or roadway by placing or depositing any rubbish, derelict vehicle, landscaping material or any other object or material that obstructs or interferes with the public use of that sidewalk, boulevard or roadway.

4. REMOVAL OF TREES AND SHRUBS DANGEROUS TO PUBLIC SAFETY

- a. The Town of Port McNeill may order the removal, cutting down, or trimming of any trees, shrubs, hedges, or bushes growing or standing on land adjacent to a highway which the Council believes are dangerous, or where the Council believes the safety or convenience of the public so requires, or where the trees, shrubs, hedges, or bushes become injurious to the road bed, sidewalk or works, at the expense of the owners or occupiers of land on which they grow or stand.
- b. Before exercising the powers conferred by subsection “4a”, the Council shall give to the owner or occupier of the land notice requiring him within 10 days from the date of the notice to remove, cut down, or trim the trees, shrubs, hedges, or bushes designated in the notice; and if the owner or occupier defaults, the Town of Port McNeill, by its employees and others, may enter and effect the removal, cutting down or trimming at the expense of the person defaulting.
- c. The expenses incurred by the Town of Port McNeill under this section shall, if unpaid on December 31, in any year, be added to and form part of the taxes payable on land designated in the notice.

5. REMOVAL OF ITEMS DANGEROUS TO PUBLIC SAFETY OR HEALTH

- a. The Council may declare any building, structure, or erection of any kind or a drain, ditch, watercourse, pond, surface water, or other matter or thing, in or on private land or a highway, or in or about a building or structure, a nuisance, and may direct and order that it be removed, pulled down, filled up, or otherwise dealt with by its owner, agent, lessee, or occupier, as the Council may determine and within the time after service of the order that may be named in it.
- b. The Council may further order that, in case of default by the owner, agent, lessee, or occupier to comply with the order within the period named in it, the Town of Port McNeill by its employees and others, may enter and effect the removal, pulling down, piling up, or other dealing at the expense of the person defaulting, and may further order that the charges for so doing, including all incidental expenses, if unpaid on December 31 in any year, shall be added to and form part of the taxes payable on that land or real property as taxes in arrears.
- c. This section applies to any building, structure, or erection of any kind which the Council believes is so dilapidated or unclean as to be offensive to the community.

6. MAINTENANCE OF SIDEWALKS & BOULEVARDS

Every owner or occupier of residential property is required to:

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- a. Remove any snow or ice or both from any sidewalk bordering the real property within 10 hours of the cessation of any snowfall or ice storm that caused any accumulation of snow or ice on any sidewalk;
- b. Remove snow or ice from the roof or other part of any structure on the property, where the location of that structure is such that it is reasonable to expect that the snow or ice on it may fall onto any sidewalk or highway, within 10 hours of the cessation of any snowfall or ice storm that caused any accumulation of snow or ice on any roof or other part of any structure;
- c. Maintain boulevards bordering the real property keeping them free of weeds and the grass cut.
- d. Report any obstructions or deficiencies within such boulevards, which may become a danger to public safety or health, to the Town of Port McNeill administration office.

Every owner of property zoned for commercial or residential uses is required to:

- e. Remove any snow or ice or both from any sidewalk bordering the real property within 10 hours of the cessation of any snowfall or ice storm that caused any accumulation of snow or ice on any sidewalk;
- f. Remove snow or ice from the roof or other part of any structure on the property, where the location of that structure is such that it is reasonable to expect that the snow or ice on it may fall onto any sidewalk or highway, within 10 hours of the cessation of any snowfall or ice storm that caused any accumulation of snow or ice on any roof or other part of any structure;
- g. Maintain boulevards bordering the real property keeping them free of weeds and the grass cut.
- h. Report any obstructions or deficiencies within such boulevards, which may become a danger to public safety or health, to the Town of Port McNeill administration office.

7. INSPECTIONS

- a. A Bylaw Enforcement Officer may enter on any property at any reasonable time for the purposes of ascertaining whether the regulations and requirements of this Bylaw are being observed.
- b. No person shall obstruct a Bylaw Enforcement Officer from entering property under section 7(a).

8. VIOLATION AND PENALTY

Every person who violates any of the provisions of this Bylaw, or who causes, suffers, or permits any act or thing to be done in contravention or in violation of any of the provisions of this Bylaw or who neglects or refrains from doing anything required to be done by any of the provisions of this Bylaw, or who carries out or who suffers, causes or permits to be carried out any development in a manner prohibited by or contrary to any of the provisions of this Bylaw, or who fails to comply with any order, direction or notice given under this Bylaw in addition to any other penalties provided for in this Bylaw, shall be liable on summary conviction to a fine not exceeding ten thousand dollars (\$10,000.00).

This bylaw may also be enforced by a Municipal Ticketing Information process.

9. REMAINDER OF BYLAW TO BE MAINTAINED INTACT

If any portion of this Bylaw is held to be invalid by a decision of a Court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this Bylaw.

10. REPEAL

The Town of Port McNeill Nuisance Bylaw No.571, 2004 and all amendments thereto are repealed on the date this bylaw comes into effect.

11. TITLE

This Bylaw may be cited for all purposes as Nuisance Bylaw No. 571.1, 2006.

READ A FIRST TIME this 18 day of September, 2006

READ A SECOND TIME this 02 day of October, 2006.

READ A THIRD TIME this 20 day of November, 2006.

RECONSIDERED AND FINALLY ADOPTED this 4 day of December, 2006.

Mayor

Corporate Administrator

Certified to be a true and correct copy of Bylaw No. 571.1, 2006 as adopted.

Corporate Administrator