

REGIONAL DISTRICT OF EAST KOOTENAY

BYLAW NO. 2750

A bylaw to establish regulations under the Nuisances and Unsightly Premises Regulatory Service.

WHEREAS Bylaw No. 2513 established the Nuisances and Unsightly Premises Regulatory Service;

AND WHEREAS the Board deems it desirable to establish regulations which may be imposed to regulate, prohibit and impose requirements with respect to nuisances and unsightly premises in the Nuisances and Unsightly Premises Regulatory Service Area;

NOW THEREFORE, the Board of the Regional District of East Kootenay, in open meeting assembled, enacts as follows:

CITING

1. This Bylaw may be cited as "Regional District of East Kootenay – Nuisances and Unsightly Premises Regulation Bylaw No. 2750, 2016".

APPLICATION

2. This Bylaw shall apply to and within the Nuisances and Unsightly Premises Regulatory Service Area established by Bylaw No. 2513, as amended or replaced from time to time.

DEFINITIONS

3. In this Bylaw, unless the context otherwise requires:

Accumulation means a build up, growth or collection, either scattered, amassed or piled, existing at the time of inspection.

Board means the Board of Directors of the RDEK.

Building Materials includes items used in construction of structures or in landscaping including but not limited to lumber, plywood, concrete, rebar, roofing, siding, doors, windows, flashing, piping or other materials commonly used for building or construction, being new or used.

Compliance Officer means a person appointed by the RDEK to administer and enforce RDEK bylaws.

Derelict vehicle means any vehicle no longer in roadworthy condition, in a state of disrepair, wrecked or being dismantled, or which is not licensed and insured in the current calendar year, but does not include vehicles stored in buildings.

Highway includes a street, road, lane, bridge, viaduct and any other way designed or intended for or used by the general public, other than a private right of way on private Property.

Occupier means any person in actual or apparent possession of real property under a lease, license or other agreement with an Owner.

Owner means any person who is the registered owner, or owner under agreement, of real property.

Property means all real property and parcels of land, with or without improvements so affixed to the land as to make them in fact and law a part of it, and includes individual premises located on the real property.

RDEK means the Regional District of East Kootenay.

Rubbish in addition to its common dictionary meaning and without limiting the generality of that meaning, includes any and all manner of refuse; debris; garbage; trash; waste; noxious, offensive or unwholesome matters; decaying or non-decaying solid and semi-solid wastes; discarded or disused items and materials; and other chattels in a dismantled or damaged condition not in use for the purpose for which it was manufactured or intended to be used.

Screening Fence means a tight board fence or an evergreen hedge or combination thereof that is maintained in good condition and appearance, which totally conceals all materials stored behind it so that no such material is visible to a person standing at grade level on an adjacent Property, a Highway or other public place.

Unsightly, in addition to its common dictionary meaning, and regardless of the condition of other properties in the neighbourhood, includes, without limitation, any Property having one or more of the following characteristics visible from an adjacent Property, a Highway or other public place:

- (a) an Accumulation of filth or Rubbish that is not contained in a covered receptacle designed or intended to be used to hold such materials;
- (b) the storage or Accumulation of all or part of more than one Derelict Vehicle on a Property;
- (c) the storage or Accumulation of Building Materials on Property where the Owner or Occupier is not in possession of a valid building permit in respect of the Building Materials;
- (d) the storage or Accumulation of mechanical equipment including bulldozers, backhoes or other similar heavy construction equipment where the Owner or Occupier is not in possession of a valid building permit in respect of the mechanical equipment;
- (e) the storage or Accumulation of appliances, bedding or furniture other than appliances or furniture designed specifically for outdoor use;
- (f) the storage or Accumulation of all or any part of any machinery, vessel or equipment which is in a damaged or dismantled state or is not in use for the purpose for which it was manufactured or intended to be used;
- (g) dilapidated, collapsed, abandoned or unfinished structures; and
- (h) any other similar conditions of disrepair, dilapidation, or deterioration.

4. REGULATIONS

4.1 General Prohibitions

- (a) No Owner or Occupier of Property shall allow, cause or permit the emission of dust due to construction, to originate from their Property.
- (b) No Owner or Occupier of Property shall allow, cause, or permit the Property to become or remain Unsightly.

4.2 Exceptions

- (a) Where a Property is used for industrial or commercial purposes and is zoned for that purpose, and where the nature of the business carried on therein requires the storage or Accumulation of materials that could be considered Unsightly but which are necessary for the operation of the said business, the Property shall not be considered to be Unsightly by reason of such storage or Accumulation if the materials are stored in an organized manner similar to comparable businesses.
- (b) The prohibitions in section 4.1 do not apply to farm operations conducted in accordance with normal farm practices under the *Farm Practices Protection (Right to Farm) Act*, RSBC 1996, c. 131.

5. ENFORCEMENT AND OFFENCES

5.1 Investigation of Complaint

- (a) A Compliance Officer may initiate an investigation on a subject Property if written complaints are received on the prescribed complaint form by three unrelated complainants from within the RDEK, from the RCMP, from the Board, or from one complainant who is directly impacted and is the Owner or Occupier of a Property located within twenty metres of the subject Property.
- (b) Complainants must be willing to appear as witnesses in the event the matter proceeds to enforcement in the courts.

5.2 Entry on Property

- (a) A Compliance Officer may, at all reasonable times, enter on and into Property in the Nuisances and Unsightly Premises Regulatory Service Area to ascertain whether the regulations and requirements of this Bylaw are being observed.
- (b) No person shall obstruct or interfere with a Compliance Officer in the exercise of his or her duties.

5.3 Violation Notice

- (a) In the event of a contravention of this Bylaw, a Compliance Officer may deliver a violation notice to the Owner or Occupier of the Property, or the agent of either of them.
- (b) A violation notice must be served personally or mailed by regular or registered mail, and must state:
 - (i) the civic address and legal description of the subject Property;
 - (ii) the particulars of the contravention to be remedied;
 - (iii) the time period in which the contravention must be remedied; and
 - (iv) that the RDEK may take remedial action if the contravention is not remedied within the time period given for compliance.
- (c) If the unsightliness of Property may be remedied by the construction of a Screening Fence, a Compliance Officer may require the Owner or Occupier to construct a Screening Fence or otherwise remedy the unsightliness of the Property.
- (d) An Owner, Occupier or agent who receives a violation notice must comply with all requirements set out in the violation notice within thirty days of the date of receiving it. An extension may be granted by a Compliance Officer where a written request has been received from the Owner or Occupier, clearly stating extenuating circumstances showing that the infraction cannot be remedied within thirty days.
- (e) Where a violation notice is personally served, it is deemed to have been received on the date it was delivered.
- (f) Where a violation notice is not personally served, it is deemed to have been received on the third day after mailing.

5.4 Default

- (a) If, within the time period specified in the violation notice, the requirements in the violation notice have not been met, then the RDEK, by its workers or others, may, at all reasonable times and in a reasonable manner, enter the Property and take the required action at the expense of the Owner or Occupier.
- (b) Any costs incurred by the RDEK to achieve compliance with this Bylaw, including, without limitation, administrative costs, costs to attend the Property, and costs associated with removal, clean-up and disposal, shall constitute a debt due and owing to the RDEK that is recoverable in a court of competent jurisdiction.
- (c) If costs referred to in subsection (b) remain unpaid on December 31 of the year in which the remedial work was done, then the costs shall be added to and form part of the taxes payable in respect of the Property as taxes in arrears.

5.5 Penalties

- (a) Any person who violates any provision of this Bylaw or who permits any act or thing to be done in violation of any provision of this Bylaw, or who neglects to do or refrains from doing anything required to be done by any provision of this Bylaw, is guilty of an offence against this Bylaw that is liable on summary conviction of a fine of not less than \$500 and up to \$10,000 in addition to the costs of prosecution.

- (b) Each day that a contravention of the provisions of this Bylaw exists, is caused or is permitted to continue shall constitute a separate offence against the Bylaw.

6. SEVERABILITY

- 6.1 If any portion of this Bylaw is for any reason held to be invalid by the decision of any court of competent jurisdiction, that portion may be severed from the Bylaw and such decision shall not affect the validity of the remaining portions of the Bylaw.

7. REPEAL

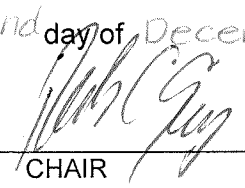
- 7.1 Bylaw No. 777 cited as "Regional District of East Kootenay – Nuisances, Rubbish and Unsightly Premises Bylaw, 1987" is hereby repealed.

READ A FIRST TIME the 2nd day of December, 2016.

READ A SECOND TIME the 2nd day of December, 2016.

READ A THIRD TIME the 2nd day of December, 2016.

ADOPTED the 2nd day of December, 2016.



CHAIR



CORPORATE OFFICER