

CONSOLIDATED VERSION

This document is an office consolidation of Bylaw No. 476, 2002 and subsequent amendment Bylaw No. 638, 2009 which have been adopted by the Village Council.

All persons making use of this consolidation are reminded that it has no Council sanction, that amendments have been incorporated only for convenience of reference, and that for all purposes of interpretation and application the original bylaws should be consulted.

The Village of Pemberton will, in no event, be liable or responsible for damages of any kind arising out of the use of this consolidation.

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VILLAGE OF PEMBERTON

BY-LAW No. 476, 2002

A BY-LAW TO PREVENT UNSIGHTLINESS OF REAL PROPERTY IN THE VILLAGE OF PEMBERTON

WHEREAS pursuant to Section 932 of the Municipal Act, being Chapter 290 of the Revised Statutes of British Columbia, 1979 and amendments thereto, the Municipal Council may by By-law prohibit the owners or occupiers of real property from allowing property to become, or to remain, untidy or unsightly;

NOW THEREFORE, the Municipal Council of the Village of Pemberton, in open meeting assembled, enacts as follows:

1. TITLE

This by-law may be cited as "Village of Pemberton Unsightly Premises By-law, No. 476, 2002".

2. REPEAL

By-law No. 169, cited as "Regulate Untidy and Unsightly Premises By-law No. 169, 1983" is hereby repealed.

3. INTERPRETATION

In this By-law, unless the context otherwise requires:

“Village” means the Village of Pemberton

“Council” means the Council of the Village of Pemberton

“Closed Structure or Closed Building” means a structure the contents of which are not visible to the public from a roadway, a public place or from private property other than that on which the structure is located; *(Amendment Bylaw No. 638, 2009)*

“Discarded Materials” means and includes all materials not in use for the construction, maintenance, or as part of the equipment or furnishings, of the building situated on the premises and includes apparatuses, motor vehicles, or other chattels in a dismantled or partly dismantled state, not in use for the purposes for which they were constructed or intended, and occupying a place open to public view;

“Motor Vehicle Act” means the Motor Vehicle Act of the Province of British Columbia, R.S.B.C., 1979 Chapter 288 and amendments thereto;

“Motor Vehicle” means a motor vehicle as defined by the Motor Vehicle Act;

“Person” means any corporation, partnership or party, and the heirs, executors, administrator, or other legal representatives of such person, to whom the context can apply according to law;

“Highways” includes a street, road, lane, bridge, viaduct, and any other way open to the use of the public, but does not include a private right-of-way on private property.

“Owner” in respect of any real property means the registered owner of an estate in fee-simple, and in the event of their being registered a life estate includes the tenant for life. In the event that there is registered an agreement for sale and purchases, “owner” means the registered holder of the last registered agreement for sale and purchase.

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

“Roadway” means the portion of the highway that is improved, designed, or ordinarily used for vehicular traffic, but does not include the shoulder; and where a highway includes two or more separate roadways, the term “road-way” refers to any one roadway separately and not to all the roadways collectively.

“Sidewalk” means the area between the curb-lines or lateral lines of a roadway and the adjacent property lines improved for use of pedestrians.

“Trailer” means a trailer as defined by the Motor Vehicle Act;

All other words or terms shall have the meaning assigned to them in the “Municipal Act” or the “Health Act” or the “Motor Vehicle Act” of the Province of British Columbia.

4. ACCUMULATIONS ON PREMISES

- 4.1 No owner or occupier of real property in the Village shall cause water, rubbish or noxious, offensive or unwholesome matter to collect or accumulate or permit such collection or accumulation around their premises.
- 4.2 No owner or occupier of real property in the Village shall cause, suffer, permit or allow such a real property to become overgrown with brush, noxious weeds, or other growth, or to become infested with caterpillars or other noxious or destructive insects.

5. RUBBISH IN OPEN PLACES

- 5.1 No person shall deposit or throw bottles, broken glass or other rubbish in any open place.

6. UNSIGHTLY REAL PROPERTY

- 6.1 Deleted *(Amendment Bylaw No. 638, 2009)*
- 6.2 No owner or occupier of real property within the Village shall cause, suffer, permit or allow the accumulation of filth, discarded materials, or rubbish of any kind to accumulate upon such real property.
- 6.3 No owner or occupier of real property within the Village shall allow such property to become, or to remain, untidy or unsightly, and shall be required to maintain the said property in a neat and tidy condition in keeping with a reasonable standard of maintenance prevailing in the neighbourhood. *(Amendment Bylaw No. 638, 2009)*
- 6.4 Every owner or occupier of real property shall clear such property of brush, and of grass in excess of 30 centimetres in length.
- 6.5 Without in any way restricting the generality of the word “unsightly”, any one or more of the following conditions may render real property unsightly where such property is not zoned for such use and, where zoned, if the accumulation of items is untidy and not stored in a lawfully constructed closed structure or closed building, within the meaning of this bylaw: *(Amendment Bylaw No. 638, 2009)*

- a) dilapidated or broken fences;
- b) materials of any sort that are strewn about the real property rather than piled in a neat and orderly manner
- c) the storage or accumulation of all or any part of a vehicle (snowmobile, motorcycle, all terrain vehicle, trailer or motorhome) which is not validly registered and licensed in accordance with the Motor Vehicle Act, and is incapable of moving under its own power;
- d) the storage or accumulation of all or any part of a boat which is inoperable, un-seaworthy, or in a dilapidated state;
- e) furniture (other than furniture designed specifically for outdoor use), bedding or appliances stored outside the premises or in open carport areas;
- f) unused landscaping materials such as dirt piles or discarded planting pots, or tree or plant material clippings;
- g) uncontained and un-maintained compost piles;
- h) accumulations of rubbish, trash, bottles, broken glass or other discarded or unwholesome materials;

6.6 It shall be unlawful for any person to store, keep, leave or maintain on any real property, except behind a lawfully constructed fence with appropriate screening or in a lawfully constructed closed building or closed structure erected or used as an enclosure, with the express purpose that materials are not visible from a public place or an adjacent property, the following:
(Amendment Bylaw No. 638, 2009)

- a) any derelict or partially dismantled vehicle or vehicle parts engines, machinery
- b) discarded materials or rubbish of any kind.
- c) the accumulation of building material, such as but not limited to, lumber, bricks, metal, pre-load, equipment and supplies, on the parcel unless
 - i) the owner of the parcel is in possession of a valid building permit;
or

ii) the owner of the parcel has a business license for building material sales or storage

d) firewood, unless neatly piled or stacked.

7. GRAFFITI

7.1 No owner or occupier of real property shall allow graffiti to remain on walls, fences or elsewhere on or adjacent to any public place.

7.2 For purposes of this Bylaw, the word graffiti means an inscription, drawing, writing, pictorial presentation, message, slogan, symbol or mark, made on a wall, fence, structure, or other surface by means of paint, chalk, ink or other substance, or by chisel, hammer, stone or other device, but does not include any of the following:

(a) a sign, public notice or traffic control mark authorized by the Village;

(b) a sign authorized pursuant to any bylaw of the Village;

(c) a public notice authorized by federal or provincial legislation or Village bylaw.

(d) No person shall place graffiti on or adjacent to a public place.

8. RIGHT OF ENTRANCE

8.1 Any officer, employee or agent of the Municipality authorized by this or any other bylaw of the Village to enforce this Bylaw (an "Authorized Person"), may enter at all reasonable times on any property in the village to ascertain whether the requirements of this Bylaw are being met or the regulations are being observed.

8.2 The Council shall appoint by resolution, such of its officers and employees as it may deem necessary as inspectors to enter upon premises within the Village during reasonable hours to inspect the said premises and determine whether there is any violation of the by-law.

9. NOTICE OF NON-COMPLIANCE

9.1 An Authorized Person may by written notice given to an occupier of the real property and by written notice sent by registered mail to the registered owner of the real property, or their agent, require the owners or occupiers of the real property, or their agent, to:

a) remove from the real property the unsightly materials;

- b) clear the real property of noxious weeds, brush, shrubs, grass or other growth; or
- c) remove the graffiti;
- d) and every person receiving such a notice shall comply within 14 days of receipt of the notice.
- e) to construct a fence with appropriate screening, with the express purpose that unsightly materials may be stored behind the fence and not be visible from a public place or adjacent property. (*Amendment Bylaw No. 638, 2009*)

10. PROTECTION OF BY-LAWS

- 10.1 Nothing in this by-law contained shall relieve any person from complying with the provisions (where applicable) of any other by-law of the Village.
- 10.2 Provisions of the "Health Act", where applicable, are hereby incorporated as part of this by-law.

11. MUNICIPALITY EFFECTS COMPLIANCE

- 11.1 In the event the owners or occupiers of real property, or their agent, fail to comply with a notice given pursuant to Section 9.1 of this bylaw, the Municipality may give a second notice to the owners and occupiers that:
 - a) the owners, occupiers, or both are in default under this bylaw;
 - b) the owners and occupiers may appear before Council to be heard on a date specified in the second notice, being not less than seven (7) days after the date of the second notice; and
 - c) the Council may after hearing the owners, occupiers, or both, pass a resolution to direct the Municipality not to effect the removal or clearance under Section 11.2
- 11.2 Where the Council does not at the meeting referred to in the further notice under Section 11.1 pass a resolution under section 11.1 to direct the Municipality not to effect the removal or clearance, the Municipality, by its employees or other persons, at reasonable times and in a reasonable manner, may enter on the property and effect the compliance specified in the notice given pursuant to Section 9 (notice of compliance) at the expense of the person who failed to comply.

11.3 If the person at whose expense the compliance is carried out under Section 11.2 does not pay the costs incurred by the Municipality to effect compliance on or before December 31 in the year that the compliance was effected, the costs shall be added to and form part of the taxes payable on the real property as taxes in arrears.

12. The provisions of Sections 9, 10 and 11 of the bylaw are in addition to any other remedies or penalties applicable to violations of the bylaw.

13. NO INTERFERENCE

No person shall interfere with:

- (a) An Authorized Person in the performance of his or her duties under this Bylaw; or
- (b) any employee or other person directed by the Municipality to carry out the terms of any notice pursuant to Section 11 of this Bylaw.

14. PENALTIES

14.1 Every person, firm or corporation who violates any of the provisions of this by-law, 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 by-law, or who fails to comply with any order, direction or notice given under this by-law shall be deemed to be guilty of an offence against this by-law and shall be liable to the penalties hereby imposed.

14.2 Every person, firm or corporation violating any provisions of this by-law shall be liable on summary conviction to a penalty not exceeding the maximum penalty specified in the Offence Act of British Columbia from time to time.

14.3 A separate offence shall be deemed to be committed on each day during which a violation occurs or continues.

15. OFFENCES

15.1 Every person who violates any of the provisions of the Bylaw or who suffers or permits any act or thing to be done or omitted to be done in contravention of the Bylaw shall be liable on summary conviction to a penalty not exceeding the maximum penalty specified in the Offence Act of British Columbia from time to time.

15.2 For purposes of determining if a contravention or violation of or failure to perform any provision of the Bylaw has occurred, each day of such contravention, violation or failure will be deemed to be a separate offence.

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

17. EFFECTIVE DATE

This by-law shall come into force and take effect upon registration thereof.

READ A FIRST TIME this 5th day of March, 2002

READ A SECOND TIME this 5th day of March, 2002

READ A THIRD TIME this 5th day of March, 2002

RECONSIDERED AND FINALLY ADOPTED this 19th day of March, 2002