

Town of Creston

Bylaw No. 1813

A Bylaw relating to the care and maintenance of private property and adjoining public places within the Town of Creston.

WHEREAS Sections 62 and 64 of the *Community Charter* empower Council to enact regulations governing the appearance and maintenance of Property and public places;

AND WHEREAS the Council wishes to regulate property maintenance within the Town of Creston;

NOW THEREFORE, the Council of the Town of Creston, in open meeting assembled, enacts as follows:

Part 1 Citation

1.1 This Bylaw may be cited as "Property Maintenance Bylaw No. 1813, 2015".

Part 2 Severability

2.1 If a portion of this Bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this Bylaw is deemed to have been adopted without the severed section, subsection, paragraph, subparagraph, clause or phrase.

Part 3 Previous Bylaw Repeal

3.1 Town of Creston Bylaw No. 1306, cited as "Property Cleanup Bylaw No. 1306", and all amendments are hereby repealed.

Part 4 Definitions

In this Bylaw,

"Authorized Representative" means a person appointed or designated by Council for the purposes of administering and enforcing this Bylaw, and includes the Town's Public Safety and Compliance Officer(s), Director of Municipal Services, Town Manager or any designate assigned temporary duties by an individual holding the before mentioned positions.

"Boulevard" means the landscaped portion of a Highway, such as a grass strip between the travelled portion of the roadway and the adjoining Properties or the centre strip of a Highway dividing traffic travelling in different directions, and includes curbs, sidewalks and ditches.

"Building" means any structure used or intended for supporting or sheltering any use or occupancy.

"Council" means the duly elected Council of the Town of Creston.

"Garbage" includes rubbish, refuse, ashes, filth, discarded materials and the bodies or parts of vehicles or machinery.

"Graffiti" means a drawing, printing, picture, writing or other mark scratched, sprayed, painted or scribbled or otherwise inscribed on a wall or other surface, but does not include a sign, art installation or mural for which a Permit has been issued by the Municipality.

"Highway" includes a public street, path, sidewalk, walkway, trail, lane, bridge, road, thoroughfare and any other public way.

"Land" means land as defined in paragraph (b) of the Schedule to the *Community Charter*.

"Improvements" means improvements as defined in the *Assessment Act*.

"Lawn" means an area of Land, excluding water, on residential or commercial Property, or the part of a public garden, park or other public place that is covered with grass or other ground cover and is to be kept mowed.

"Municipality" means either, depending on the context,

- a) the corporation of the Town of Creston, or
- b) the geographical area encompassed by and incorporated as the Town of Creston.

"Occupier" has the same meaning as in paragraph (b) of the definition of occupier in the Schedule to the *Community Charter*.

"Owner" shall have the same meaning as set out in the *Community Charter*.

"Property" means Land with or without Improvements and includes a Highway.

"Public Place" means any Property owned or occupied by a local government, the Province of British Columbia or the Government of Canada and includes any highway, boulevard, sidewalk, park, and walkway.

"Refuse" means refuse, garbage or other material, which is noxious, offensive or unwholesome and includes but is not limited to any of the following:

- a) discarded construction or demolition material
- b) furniture and mattresses
- c) clothing
- d) inoperative appliances, furnace, heater, fuel tanks, electronic goods
- e) machinery
- f) tires
- g) a Vehicle that appears, by reason of its appearance, mechanical condition or lack of current licence plates, to be inoperative.
- h) yard waste

"Unightly" means property having any one or more of the following characteristics:

- a) the accumulation of Refuse, brush, discarded materials, water or Graffiti;
- b) fences characterized by holes, breaks, rot, crumbling, cracking, peeling or rusting;
- c) landscaping that is dead, characterized by uncontrolled growth or lack of maintenance, or that is damaged;

- d) a lowering in quality of the condition or appearance of a building or 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; or
- e) any other similar conditions of disrepair and deterioration regardless of the condition of other properties in the neighbourhood.

“**Vehicle**” has the same meaning as vehicle in the *Motor Vehicle Act*.

“**Warning**” means a Warning issued pursuant to Part 7 of this Bylaw.

“**Yard Waste**” means the accumulation of refuse, including garden material or vegetation with the exception of a structured and well-maintained backyard compost pile.

Part 5 Prohibition

Accumulation

- 5.1 No Owner or Occupant of Property within the Municipality shall cause or permit Refuse or water to collect or accumulate on the Property.

Graffiti

- 5.2 No person shall place Graffiti or cause Graffiti to be placed on a sidewalk, wall or building, fence, sign or any other structure or surface in or on private Property or a Public Place in the Municipality.

Refuse

- 5.3 No person shall litter, deposit, throw or discard bottles, broken glass or other Refuse in any open place in the Municipality.

Unsightliness

- 5.4 No Owner or Occupant of Property within the Municipality shall permit or allow the Property to become or remain Unsightly.

Part 6 Property Standards

Property Maintenance

- 6.1 No part of this Bylaw shall be deemed to prevent the lawful storage and keeping of material in or on any non-residential Property, if a lawful use, requiring that the material be kept or stored, is conducted on the Property and the materials are stored in a neat and orderly fashion.
- 6.2 The Owner or Occupier of Property, at their own expense, must keep the Property clean and free from:
- (a) Buildings or other structures that are dilapidated or collapsed, and
 - (b) Graffiti.

- 6.3 The Owner or Occupier of a Property must not park, store, leave or allow any mechanical equipment, vehicle, trailer, boat or a remnant or any part of them that is in a wrecked, discarded, dismantled or inoperative condition to be parked, stored or left on the Property, unless the Property may be lawfully used for that purpose.
- 6.4 The Owner or Occupier of Property must, at their own expense,
- (a) mow and maintain, at a height of not more than 20 centimetres, any lawn on the Property;
 - (b) remove, trees or other plants, or prune limbs or branches of them, that are dead, diseased, decayed or damaged; and
 - (c) plant and maintain hedges, shrubs, trees or other plants in a manner that does not:
 - (i) obstruct the safety of the public;
 - (ii) affect the safety of vehicular or pedestrian traffic;
 - (iii) constitute an obstruction of view for vehicular traffic;
 - (iv) wholly or partly conceal or interfere with the use of hydrants or water valves;
 - (v) overhang or encroach upon any pavement, sidewalk or travelled portion of a Highway abutting the Property.

Boulevard Maintenance

- 6.5 The Owner or Occupier of Property fronting onto a Boulevard, at their own expense, must
- (a) keep the Boulevard free from garbage or other matter, debris and objects that might create a health, fire or accident hazard; and
 - (b) maintain the Boulevard to a standard that includes, but is not limited to, mowing a lawn on the Boulevard in accordance with Section 6.4(a) of this Bylaw.

PART 7 Right of Entry, Inspection and Warning

- 7.1 An Authorized Representative of the Municipality may enter on Property within the Municipality in accordance with the procedures prescribed in Section 16 of the *Community Charter* for the purposes of
- (a) inspecting and determining whether all regulations, prohibitions and requirements of this Bylaw are being met, and
 - (b) taking action authorized under Section 17 of the *Community Charter*.
- 7.2 No person shall obstruct or interfere with an Authorized Representative in the exercise of the powers conferred on the Authorized Representative under this Bylaw.

If an Authorized Representative considers that an Owner or Occupier of Property has contravened any one or more provisions of this Bylaw in relation to the Property, the Authorized Representative may issue a Warning to the Owner or Occupier of the Property to comply with this Bylaw.

7.3 The Warning must

- (1) be in written form and delivered by certified mail or in person by an Authorized Representative to the Property Owner, with a copy sent to the Occupier, if any;
- (2) describe the Property by municipal address, location or legal description;
- (3) give reasonable particulars of the repairs, demolition, clearing, clean-up or other measures described in the Warning;
- (4) give the Owner or Occupier fourteen (14) days after delivery of the Warning to respond to the Municipality with a plan to remedy the contravention; and,
- (5) outline the procedure for appeal of the Warning (Part 7).

7.4 If the address of an Occupier is unknown or the Town is unable to effect service on an Owner or Occupier in accordance with subsection (7.4) of this Bylaw, a placard setting out the terms of the Warning may be placed in a conspicuous place on or near the Owner's or Occupier's Property.

PART 8 Right of Appeal

- 8.1 The Owner or Occupier of the Property may appeal the Warning issued under Part 7 of this Bylaw by submitting to the Town Manager written reasons for appeal, prior to the expiry date of the Warning.
- 8.2 Upon receiving the appeal of the Warning, the Town Manager will direct an inspection of the Property, and after consideration of the Inspection report, notify the Owner or Occupier of the Property, in writing, that the appeal is allowed, i.e. the Warning is cancelled, or the appeal is denied and the Warning is confirmed.

Part 9 Remedy and Penalty

- 9.1 If the Owner or Occupier of the Property fails to comply with a Warning by the date of expiration, and if no appeal is filed under Part 8 of this Bylaw or an appeal is denied, the Municipality may either:
- (a) issue a Bylaw Notice pursuant to Bylaw Notice Enforcement Bylaw No. 1760, as amended from time to time; or
 - (b) carry out, in accordance with Section 17 of the *Community Charter*, the action required in the Warning, by the Municipality's own forces or by a contractor(s), in default of, and at the expense of, the Owner or Occupier to take the action.
- 9.2 The costs incurred by the Municipality in any exercise of its powers herein shall be the responsibility of the Owner and may be recovered as a debt from the Owner or Occupier or, if not paid by the 31st day of December in the year in which they incurred, may be recovered under Division 14 of Part 7 of the *Community Charter* in respect of the Owner's Property as taxes in arrears.

For each day that a violation of any provision of this Bylaw continues past the date of expiration of the Warning issued under Part 7 of this Bylaw constitutes a separate offence.

READ A FIRST TIME by title and SECOND TIME by content this 14th day of April, 2015.

READ A THIRD TIME by title this 14th day of April, 2015.

ADOPTED this 28th day of April, 2015.

“Ron Toyota”
Mayor Ron Toyota

“Bev Caldwell”
Bev Caldwell, Executive Assistant