

CITY OF NANAIMO

BYLAW NO. 7242

A BYLAW TO AUTHORIZE PROPERTY MAINTENANCE AND STANDARDS

WHEREAS, pursuant to the *Community Charter*, the City is authorized to regulate refuse, garbage or other material that is noxious, offensive or unwholesome; graffiti and unsightly conditions on property; the accumulation of water on property; growths that should be removed, cut down or trimmed; unsanitary conditions on property; and

WHEREAS, pursuant to the *Community Charter*, Council is authorized to prohibit persons from doing things on their property; and

WHEREAS, pursuant to the *Community Charter*, Council is authorized to regulate for the protection and enhancement of the wellbeing of its community in relation to matters referred to in Section 64 (nuisances, disturbances and other objectionable situations); and

WHEREAS, pursuant to the *Community Charter*, Council is authorized to delegate its powers, duties and functions established in this enactment to an officer or employee of the municipality and that Council may hear an appeal or reconsider an action, decision or other matter.

1. Title

This Bylaw may be cited as "PROPERTY MAINTENANCE AND STANDARDS BYLAW 2017 NO. 7242".

2. Definitions

Accumulation means: a mass, pile, heap, stack, collection, stock, store, stockpile, reserve, hoard of quantify of something that has been gathered or acquired.

Agent means: an authorized agent for an owner.

Appeal(ed) means: reconsideration of a decision.

Bylaw Enforcement Officer means: a person or persons appointed from time to time by resolution of Council pursuant to Section 36 of the *Police Act*, and includes the Manager of Bylaw, Regulation and Security and any person designated to act on his/her behalf.

City means: the City of Nanaimo

City Engineer means: the Director or Manager of the Engineering and Environment Division of the City or the Director or Manager of Engineering and Public Works or their designate.

Collect means:	gather together, assemble, acquire, store
Community Charter means:	<i>Community Charter SBC 2003, c 26 and amendments from time to time</i>
Container means:	a dumpster, garbage can, garbage bin, or other receptacle designed, intended or used to hold rubbish, discarded materials, waste products and matters or debris
Council means:	the Council of the City of Nanaimo
Derelict means:	run down, unused, decaying, dismantled, dilapidated, inoperable, in poor condition, neglected
Filth means:	putrid or foul matter
Graffiti means:	writing or pictorial representation scratched, scribbled, painted or otherwise applied to walls, roofs, fences, windows, or other structures or surfaces but not including permitted signs as defined in the City of Nanaimo Sign Bylaw and amendments thereto or any signs required by the City Engineer
Graffiti means:	Letters, symbols or markings made on any structure, building, thing or property without the authorization of the City of Nanaimo.
Manager of Bylaw, Regulation & Security means:	the person designated as the Manager of Bylaw, Regulation and Security to administer the enforcement of Bylaw regulations
Noxious Weeds means:	noxious or invasive species which, for the purposes of this bylaw, are limited to Himalayan blackberries, English ivy, Canada thistle, giant hogweed, knotweed, Scotch broom
Nuisance means:	an inconvenience, problem, burden, interference or destructive and harmful to lands.
Occupier means:	a person residing on or in property, the person entitled to possession of property, the leaseholder
Person means:	an individual, person, owner, association, corporation, firm, political body, co-partnership or similar organization and their heirs, executors, successors and assigns or other legal representative, whether acting alone or by servant, agent or employee
Property Owner/Owner means:	a person registered in the records of the Land Title Office as the fee simple owner of a parcel including: a) a registered owner of an estate in fee simple; b) the tenant for life under a registered life estate; c) the last registered holder of the last registered agreement for sale; and

d) an authorized agent for the owner

Real Property/Property means: all property including, but not limited to, front yards, side yards, back yards, driveways, walkways, and any buildings or structures located on such property

Rubbish means: filth, rubbish, discarded materials, noxious, offensive or unwholesome matter including, but not limited to:

- decaying or non-decaying solid or semi-solid wastes, food wastes, market wastes;
- combustibles such as paper, cardboard, yard trimmings and brush, logs, stumps, wood waste;
- non-combustibles such as metal cans and metal materials, plastics, leathers, glass containers, glass, crockery, glass materials, dirt, ashes from fireplaces and on-site incinerators, street sweepings;
- bulky wastes such as furniture, household items and materials, appliances, tires, derelict or dismantled bicycles and parts, vehicle parts, derelict lawn equipment, construction and demolition waste, trade waste;
- derelict, dismantled, unused, dilapidated, inoperable vehicles, derelict recreational vehicles, campers, utility trailers, boat trailers, transport trailers, derelict boats, derelict vessels, derelict machinery, derelict mechanical and metal parts

Temporary Shelter means: a structure, improvement, shield or cover that protects people or things and includes a tent, lean-to or other shelter made of cardboard, tarpaulin, plastics, metal, logs, brush, branches, or other materials or things

Vehicle means: any vehicle as defined in the *Motor Vehicle Act* and shall include, but not be limited to, snowmobiles, dirt bikes, and all-terrain vehicles

3. Authority to Enter

Bylaw Enforcement Officers are hereby authorized to enter at all reasonable times and in a reasonable manner upon any property within the city for the purposes of determining if all regulations, prohibitions and requirements of this bylaw are met.

4. Regulations

No person, owner or occupier of real property or their agents shall:

1. cause or permit rubbish to collect or accumulate on or around lands or buildings owned or occupied by them.

2. cause or permit water to accumulate on or around lands or buildings owned or occupied by them.
3. cause or permit rubbish to overflow from or accumulate around any container.
4. where a building permit has been issued, cause or permit demolition waste, construction waste or trade waste to accumulate on or around the property.
- ~~5. place graffiti on walls, fences, or elsewhere adjacent to a public place.~~
5. cause or permit graffiti to accumulate or remain on any fence, surface, or structure which is visible from an adjacent property or public place.
6. interfere with or obstruct a Bylaw Enforcement Officer in the exercise of his/her duties.

5. Noxious Weeds and Other Growths

Every owner or occupier of real property or their agents shall:

1. remove from the entire property all noxious weeds and all brush or overgrowth which becomes a nuisance.

6. Destructive Insects

Every owner or occupier of real property or their agents shall:

1. remove from the entire property infestations of tent caterpillars and fall web worm.

7. Temporary Shelter

No person, owner or occupier of real property or their agents shall:

1. cause, allow or permit any person or persons to erect or occupy a temporary shelter for the purposes of transitory, short-term, interim or permanent lodging for staying, sleeping, dwelling, residing, camping or overnight abode.

8. Enforcement

1. Where the Bylaw, Regulation and Security Division has received a complaint that real property is in contravention of this bylaw and the complaint has been verified, a letter may be issued directing the property owner to rectify the contravention.
2. Where, after the expiry of 21 days from the date of the letter, the property owner has failed to comply with the requirements set out in the letter and has not appealed the direction of the Manager of Bylaw, Regulation and Security to Council, the City or its agents may enter upon the property to affect the work required to bring the property into compliance.
3. To appeal the direction of the Manager of Bylaw, Regulation and Security, a property owner must, prior to the expiration of 14 days from the date of the letter directing that the contravention be rectified, contact the Legislative Services Department and request to appear as a delegation for reconsideration of the matter by Council at the next Council meeting following the request.

4. If the property owner appeals the direction of the Manager of Bylaw, Regulation and Security, enforcement action will not be taken until the appeal has been heard by Council and a decision given.
5. All work done and services provided by the City or its agents to bring the property into compliance will be billed to the property owner and are recoverable as a debt. If the costs are unpaid by December 31st in the same year, the costs will be added to taxes payable.

9. ~~Penalties~~

- ~~1. A person or property owner who contravenes, violates or fails to comply with any provision of this bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this bylaw, or who fails to do anything required by this bylaw, commits an offence and shall be liable, upon conviction, to a fine of not more than \$10,000 and not less than the fines prescribed in Schedule 'A' of this Bylaw, the cost of prosecution and any other penalty or order imposed pursuant to the *Community Charter* (British Columbia) or the *Offence Act* (British Columbia) as amended from time to time.~~
- ~~2. Each day that an offence against this bylaw continues or exists shall be deemed to be a separate and distinct offence.~~

9. Violation and Penalty

1. Any Person who causes, permits or allows anything to be done in contravention or violation of this Bylaw, or who neglects or fails to do anything required to be done pursuant to this Bylaw, commits an offence against this Bylaw and is liable upon summary conviction to pay a fine of not more than \$50,000, plus the costs of prosecution, and any other penalty or remedy available under the Community Charter and Offence Act.
2. This Bylaw may be enforced by bylaw notice pursuant to the Bylaw Notice Enforcement Bylaw 2012 No. 7159, as amended or replaced.
3. Each day that an offence continues or exists shall constitute a separate offence."

10. ~~_____~~ Schedules

~~_____ Council authorizes that Schedule 'A' may be omitted and established by resolution where the schedule can be more conveniently contained in a resolution.~~

10. Severability

If any section or provision of this bylaw is held to be invalid by a court of competent jurisdiction, the invalid portion shall be severed and the validity of the remainder of the bylaw shall not be affected.

11. Repeal

The Property Maintenance Bylaw 1990 No 3704" is hereby repealed.

PASSED FIRST READING 2017-APR-24
PASSED SECOND READING 2017-APR-24
PASSED THIRD READING 2017-APR-24
ADOPTED 2017-MAY-01

W. B. MCKAY
MAYOR

S. GURRIE
CORPORATE OFFICER

SCHEDULE 'A'

<u>Offence</u>	<u>Section</u>	<u>Fine</u>
Permit rubbish to collect	4.1	150.00
Permit water to accumulate	4.2	150.00
Permit rubbish to overflow container	4.3	150.00
Permit waste to accumulate	4.4	150.00
Place graffiti	4.5	200.00
Interfere with officer	4.6	200.00
Fail to clear overgrowth	5.1	150.00
Fail to remove infestation	6.1	150.00
Allow temporary shelter	7.1	150.00

Note: Schedule A offences to be transferred to the Bylaw Notice Enforcement Bylaw 2021 No. 7159 (see Bylaw Notice Enforcement Amendment Bylaw 2020 No. 7159.11).