

REGIONAL DISTRICT OKANAGAN-SIMILKAMEEN

BYLAW NO. 2521, 2010

A bylaw to regulate and control untidy and unsightly premises.

WHEREAS the Board of the Regional District Okanagan-Similkameen has adopted the Untidy and Unsightly Premises Regulatory Control Service Establishment Bylaw No. 2520, 2010, to establish a service in Electoral Area 'G' of the regional district for the regulation and control of untidy and unsightly premises.

AND WHEREAS the *Local Government Act* authorizes the Regional District of Okanagan-Similkameen to regulate and prohibit, by bylaw, untidy and unsightly premises.

NOW THEREFORE, the Board of the Regional District of Okanagan-Similkameen, in open meeting assembled, enacts as follows:

1. In this bylaw:
 - a) "Board" means the Board of the Regional District of Okanagan-Similkameen;
 - b) "Bylaw Enforcement Officer" means the person appointed as such by the Board;
 - c) "Highway" means a highway as defined in the *Highway Act*;
 - d) "Noxious Weeds" means weeds designated as such under the Weed Control Regulation of the *Weed Control Act*; and,
 - e) "Regional District" means the Regional District of Okanagan-Similkameen.
 - f) "Unrelated Complainant" means not related by blood or affinity.
2. No owner or occupier of real property shall cause or permit:
 - a) Refuse, garbage, or other noxious, offensive, or unwholesome material to collect or accumulate on such real property or in any buildings or structures located on such real property;
 - b) Water to collect or accumulate on such real property or in any buildings or structures located on such real property;
 - c) Noxious weeds to grow or accumulate on such real property;

- d) Trees, brush, and other growths on such real property to create a safety hazard;
 - e) Graffiti to be placed on any buildings or structures located on such real property; and,
 - f) Any other unsightly condition to exist on such real property or in any buildings or structures located on such real property.
3. Every owner and occupier of real property shall remove, or cause to be removed, from such real property and from any buildings or structures located on such real property:
- a) All collections or accumulations of refuse, garbage, or other noxious, offensive, or unwholesome material;
 - b) All collections or accumulations of water;
 - c) All noxious weeds;
 - d) All trees, brush, and other growths that create a safety hazard;
 - e) All graffiti; and,
 - f) All other unsightly conditions.
4. Upon any failure by the owner or occupier of real property to undertake the work necessary to comply with section 3 of this bylaw, and upon the owner or occupier of such real property having been given an opportunity to be heard by the Board in respect of such failure, the Regional District may, by its own forces or those of a contractor, carry out the work necessary to comply with section 3 of this bylaw at the expense of the owner or occupier, and the Regional District may recover the costs of undertaking the work either as a debt against the person in default or in the same manner and with the same remedies as property taxes.
5. The bylaw enforcement officer may at any reasonable time enter on or into any real property to ascertain whether the regulations and requirements of this bylaw are being observed.
6. No person shall obstruct or interfere with the bylaw enforcement officer in the exercise of the powers conferred on the bylaw enforcement officer under this bylaw.
7. Every 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, is guilty of an offence against this bylaw that is punishable upon summary conviction by a fine of up to \$2000.
8. Each day that a violation of any provision of this bylaw continues to exist is a separate offence against this bylaw.

9. Procedures for regulating and controlling untidy and unsightly premises are outlined in Schedule 'A' attached to an forming part of this bylaw.
10. If any section, subsection, or other portion of this bylaw is held by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of the remainder of this bylaw.
11. This bylaw may be cited as the "Electoral Area 'G' Untidy and Unsightly Premises Regulatory Control Bylaw No. 2521, 2010".

READ A FIRST, SECOND AND THIRD TIME this 18th day of March, 2010.

ADOPTED this 6th day of May, 2010.

RDOS Board Chair

Chief Administrative Officer

SCHEDULE 'A'

PROCEDURES FOR REGULATING & CONTROLLING UNTIDY AND UNSIGHTLY PREMISES

A. Inspection and Notice

To initiate an investigation for a subject property, an Untidy and Unsightly Premises Complaint form must be completed and signed by 2 or more unrelated complainants from within the electoral area. The complainants must be willing to appear as witnesses in the event the matter proceeds to enforcement in the courts.

If a contravention of the bylaw is observed, the Bylaw Enforcement Officer will issue a bylaw notice by registered letter to the property owners or occupants of the property stating:

- a) The civic address of the subject property
- b) The legal description of the subject property
- c) The particulars of the unsightly nature of the property or the contravention to be remedied
- d) That the unsightly or untidy nature of the property or the contravention must be remedied within 30 (thirty) days of the date of delivery of the notice or a lesser period of time set by the Bylaw Enforcement Officer where there appears to be an immediate safety concern.
- e) In the event the bylaw notice is returned unclaimed or refused, the Bylaw Enforcement Officer will attempt to deliver the same bylaw notice by hand and will post a copy of the bylaw notice at the subject property.
- f) If compliance is not met within the stated time period, a recommendation will be forwarded to the Regional District Board to request the owner or occupier of the property to undertake the work necessary to comply with Section 3 of this bylaw, or the Regional District may, by its own forces or those of a contractor, carry out the work necessary to bring the property into compliance at the expense of the owner or occupier. And that if compliance is not met within the time period stated, a recommendation may be forwarded to the Regional District Board to undertake further legal action that is deemed necessary.
- g) The owner or occupier of such real property shall be provided an opportunity to be heard by the Regional District Board in respect of such failure.
- h) The Regional District may recover the costs of undertaking the work either as a debt against the person in default or in the same manner and with the same remedies as property taxes in arrears.

B. Procedure

- a) If no response is made to the non-compliance issues identified in a bylaw notice, a Notice of Hearing is prepared together with the standard Board Report from the Community Services Manager. A new file is opened and the required documentation is forwarded to the property owner by registered mail in sufficient time to allow thirty (30) days notice of the hearing.
- b) The Community Services Manager may provide for a shorter time period for the hearing where there appears to be an immediate safety concern.
- c) In the event the Notice of Hearing is returned unclaimed or refused, if time permits prior to the Board meeting, the Bylaw Enforcement Officer will attempt to deliver the same Notice by hand, and the item will proceed to the Board as scheduled for consideration.
- d) On the day of the meeting, the item shall be announced, and the Chair shall ask if the Owner(s) of the property is present and wishes to make representations. The Board shall listen fairly to the owners as well as to the Bylaw Enforcement Officer. If the Board decides that remedial work will proceed the Board shall pass a resolution.
- e) Regional District of Okanagan-Similkameen staff will initiate a work order, complete with location map, property owner's name and civic address, and photo (if available) and have staff or a contractor conduct the clean up immediately. All lots must be cleaned by the end of the working day on the following Friday to ensure no dispute of work initiated by Regional District of Okanagan-Similkameen and completed by the homeowner over the weekend.
- f) Whenever goods, chattels or things of apparent value are removed from the property by the Regional District, the District may place such goods, chattels or things in storage and give notice to the occupant or such other persons who appear to be the owner of the goods, chattels or things that, unless within one (1) month the occupant or such other persons pays the cost incurred by the District for the removal and storage and takes possession of such goods, chattels or things, the District may dispose of them by public auction or private sale and that all monies received by the District from such disposal shall be applied firstly against payment of the cost of removal, storage and disposal, and secondly, to the credit of the occupant or such person.
- g) If the charges for a lot cleaning remain unpaid on the last day in the year in which the remedial work was done, the charges will be added to and form part of the taxes payable in respect to the said real property as taxes in arrears.

C. Offences and Penalties

In addition to the foregoing direct enforcement against the owner, the Bylaw Enforcement Officer may consider bringing a prosecution against the owner(s) of the property in accordance with Section 7 and 8 of this bylaw.