

SUMMARY:

The Unsightly Premises and Visual Nuisance Bylaw prohibits an owner or occupier of property to permit their property to become unsightly by allowing the accumulation of discarded material or rubbish. The bylaw also prohibits littering or graffiti on or adjacent to a public place. Any person who violates the provisions of the bylaw is subject to fines under the City of Kelowna Ticket Information Utilization Bylaw.

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CITY OF KELOWNA
BYLAW NO. 8217
REVISED: May 7th, 2001

CONSOLIDATED FOR CONVENIENCE TO INCLUDE BYLAW NO. 8547

A Bylaw to Prohibit Unsightly Premises and Visual Nuisances

The Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. Citation

1.1 This bylaw may be cited for all purposes as 'Unsightly Premises and Visual Nuisance Bylaw No. 8217'.

2. Interpretation

2.1 In this bylaw:

'Bylaw Enforcement Officer' means the persons duly appointed by Council as such,

BL8547 amended definition:

'Derelict Vehicle' means any vehicle or part thereof, propelled otherwise than by muscle power which:

- (a) is physically wrecked or disabled;
- (b) is not capable of operating under its own power; and
- (c) does not have attached number plates for the current year pursuant to the regulations of the *Motor Vehicle Act* of the Province of British Columbia,

BL8547 amended definition:

'Discarded Material' means all manner of garbage, **junk**, unused or dismantled trailers, boats, vessels, machinery, mechanical or metal parts, bottles, glass, brush piles, pipes, unused wood or wood products excluding seasoned untreated wood or manufactured products cut in lengths for use as a fuel in a solid fuel burning appliance, dilapidated furniture, inoperative appliances, **derelict vehicles** and other similar things,

'Filth' means foul or putrid matter,

'Junk' means old metal, glass, paper, wood or other material which may be usable again in some fashion,

'Nuisance' means any act or omission which obstructs or causes inconvenience or damage to a segment of the public in the exercise of rights common to all members of the public,

'Rubbish' means useless waste,

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'Offensive matter' means physical objects which are objectionable to the public,

'Unwholesome matter' means physical objects which are detrimental to the physical or mental well being of persons,

'Unsightly' means offensive to the sight, and

'Waste' means refuse from places of human habitation.

3. Regulations

Except as provided for in sections 5.1 and 5.2 of this bylaw:

- 3.1 No owner or occupier of real property shall cause or permit water, **rubbish**, or noxious, offensive, or **unwholesome matter** to collect or accumulate on their premises.
- 3.2 No person shall deposit or throw bottles, glass or other **rubbish** in any open place.
- 3.3 No owner or occupier of real property shall cause or permit a visual **nuisance** on their premises.
- 3.4 No person shall place graffiti on walls, fences or elsewhere on or adjacent to a public place.
- 3.5 No owner or occupier of real property shall allow their property to become or remain **unsightly** by accumulation of **filth, discarded materials, rubbish** or graffiti.
- 3.6 No person shall obstruct or interfere with a **Bylaw Enforcement Officer** in the exercise of his duties.

4. Enforcement

- 4.1 The **Bylaw Enforcement Officer** is authorized, at all reasonable times, to enter on any property for any purpose pursuant to this bylaw.
- 4.2 Where the **Bylaw Enforcement Officer** has received a complaint that real property is unsightly and the subsequent investigation verifies property is **unsightly**, the **Bylaw Enforcement Officer** may issue a written order to the owner and/or occupier requiring that the **unsightly** condition be remedied by removal from the property of **unsightly** accumulations of **filth, discarded materials, rubbish**, or graffiti.
- 4.3 Where, after the expiry of fifteen (15) days from delivery of an order given pursuant to Section 4.2 of this bylaw, the **unsightly** condition which gave rise to the order has not been remedied, the City of Kelowna, by its employees or other persons, at reasonable times and in a reasonable manner, may enter on the property and effect compliance with the order at the expense of the property owner.
- 4.4 If the compliance is carried out under Section 4.3 of this bylaw, and the property owner does not pay the costs on or before December 31st in the year that the compliance was effected, the cost may be added to and form part of the taxes payable in respect of the said real property as taxes in arrears.

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- 4.5 Where the **Bylaw Enforcement Officer** has received a complaint that real property is a visual **nuisance** or contains **offensive matter** on it, and a subsequent investigation verifies the complaint, the **Bylaw Enforcement Officer** may issue an order to the person causing the **nuisance** or allowing the **offensive matter** to remain on the real property, requiring that the visual **nuisance** be abated or the **offensive matter** removed from the property.
- 4.6 Where, after the expiry of fifteen (15) days from the delivery of an order given pursuant to Section 4.5 of this bylaw, the visual **nuisance** which gave rise to the order has not been abated or the **offensive matter** has not been removed from the property, the City of Kelowna, by its employees or other persons, at reasonable times and in a reasonable manner, may enter on the property and abate the visual **nuisance** or remove the **offensive matter** all at the expense of the real property owner.
- 4.7 If the compliance is carried out under Section 4.6 of this bylaw, and the property owner does not pay the costs on or before December 31st in the year that the compliance was effected, the costs may be added to and form part of the taxes payable in respect of the said real property as taxes in arrears.
- 4.8 Where the City of Kelowna incurs legal costs in order to have an **unsightly** condition remedied or a visual **nuisance** abated or **offensive matter** removed from a property, such costs shall be considered to be costs related to the remedy, abatement or removal and may be collected from the property owner in accordance with the provisions of this bylaw.

5. Exemptions

- 5.1 This bylaw does not apply to normal farm practices on farm operations in accordance with the *Farm Practices Protection (Right to Farm) Act*.

BL8547 amended Sub-Section 5.2:

- 5.2 This bylaw does not apply to the outdoor storage of goods and chattels when permitted by the City of Kelowna Zoning Bylaw No. 8000.

6. General

- 6.1 Any enactment referred to herein is a reference to an enactment of British Columbia and regulations thereto, as amended, revised, consolidated or replaced from time to time, and any bylaw referred to herein is a reference to an enactment of the Council of the City of Kelowna, as amended, revised, consolidated or replaced from time to time.
- 6.2 If a section, sub-section, paragraph, sub-paragraph, or phrase of this bylaw is for any reason declared invalid by a Court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this bylaw which shall continue in full force and effect and be construed as if the bylaw had been adopted without the invalid portion.
- 6.3 This bylaw shall take full force and effect as and from the date of adoption.

7. Repeal

- 7.1 City of Kelowna Unsightly Premises Regulation Bylaw No. 6761-90 is hereby repealed.

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8. Penalty

- 8.1 Every person who violates a provision of this bylaw commits an offence and is liable on summary conviction to the penalties provided under the Offence Act, or where applicable, to the penalties imposed under City of Kelowna Ticket Information Utilization Bylaw No. 6550-89.

Read a first, second and third time by the Municipal Council this 11th day of May, 1998.

Adopted by the Municipal Council of the City of Kelowna this 19th day of May, 1998.

"Walter Gray"

Mayor

"D.L. Shipclark"

City Clerk