



THE DISTRICT OF WELLS

BYLAW NO. 135, 2014

UNTIDY AND UNSIGHTLY PREMISES BYLAW

WHEREAS the economy of Wells is dependent on tourism; and **WHEREAS** Wells has embarked on a long-term program of improvements to enhance the image and appearance of the community; and **WHEREAS** as part of that program it is deemed necessary and expedient to regulate untidy and unsightly premises within the District of Wells and to require the owners or occupiers of real property to not only remove therefrom any accumulation of filth, abandoned vehicles and abandoned equipment, other worn-out or discarded material, scrap, trash, debris or rubbish of any kind, but also to maintain the exterior facades and frontages to a high standard;

NOW THEREFORE the Council of the District of Wells in an open meeting assembled enacts as follows:

1. DEFINITIONS for the purpose of this bylaw:

- 1.1. "Abandoned Equipment" means equipment or machinery, which has been rendered inoperative by reason of its disassembly, age or mechanical condition but does not include equipment located in historical displays or as signage for commercial businesses;
- 1.2. "Abandoned Vehicle" means the whole or any part of any motor vehicle that has no current license plate attached to it and in respect of which, no registration certificate has been issued for the current year; and
 - (a) is in a wrecked, partly wrecked, dismantled, partly dismantled, or inoperative condition and is not located in a building or located on the property such that it can be concealed from view; or
 - (b) is inoperative by reason of removed or missing parts or equipment, and is not located within a building or located on property such that it can be concealed from view;

- 1.3. "Accumulation" means a collection, either scattered, amassed or piled, existing at the time of inspection;
- 1.4. "Bylaw Enforcement Officer" means a full-time employee of the District of Wells including, but not limited to, the Chief Administrative Officer, the Superintendent of Public Works, or the Deputy Clerk;
- 1.5. "Council" means the Council of the District of Wells;
- 1.6. "District" means the District of Wells;
- 1.7. "Offending Material" means any material or substance which this bylaw requires owner, occupiers or their agents to remove or clear from their real properties;
- 1.8. "Rubbish" means all scrap, trash and debris and all discarded, dilapidated, broken or unused items and without restricting the generality of the foregoing, shall include old glass, plastic, metal, paper and wood products not presently in use;
- 1.9. "Unsightly" in addition to its common dictionary meaning, shall include:
 - (a) the storage, location or accumulation visible to an adult person standing at grade level on a public highway or road or neighbouring property, of abandoned vehicles or abandoned equipment;
 - (b) the storage, location, placement or deposit of any scrap, trash, debris, filth or rubbish;
 - (c) the storage, location or placement of building materials on a site where construction under a building permit is not taking place, except where they cannot be seen from a public highway or neighbouring property;
 - (d) the lack of repair or maintenance of buildings, structures, or property including but not limited to:
 - (i) the significant deterioration of buildings, structures or improvements, or portions of buildings, structures or improvements;
 - (ii) broken or missing windows, siding, shingles, shutters, eaves or other building material; or
 - (iii) significant fading, chipping or peeling of painted areas of buildings, structures or improvements on property.

2. UNTIDY AND UNSIGHTLY PREMISES

2.1. Property Owner or Occupier Prohibitions

- (a) An owner or occupier of real property must not:
 - (i) allow such property to become or remain unsightly; or
 - (ii) cause or permit rubbish, noxious, offensive or unwholesome matter or substance, filth, discarded materials, abandoned vehicles or abandoned equipment of any kind to collect or to accumulate on or around such property.

2.2. Property Owner or Occupier Obligations

- (a) The owner or occupier of real property, or their agents, must:
 - (i) remove or cause to be removed from the real property any rubbish, or noxious, offensive or unwholesome matter or substance, or any unsightly accumulation of rubbish, filth, abandoned vehicles, or abandoned equipment of any kind;
 - (ii) clear or cause such property to be cleared of unsightly brush, trees, weeds or other growth; and
 - (iii) keep grass trimmed to a height of not more than 20 centimeters.

3. COMPLAINTS

3.1. Inspections of real property under this bylaw by the Bylaw Enforcement Officer(s) may be initiated:

- (a) at the request of Council; or
- (b) by complaints received by the Bylaw Enforcement Officer pursuant to 3.2 hereof.

3.2. Complaints regarding any alleged violation of this bylaw must be made, in writing, to the Bylaw Enforcement Officer who may, but is not obliged to, inspect the real property which is the subject of the complaint.

4. NOTICES

4.1. Where an owner or occupier, or their agents fail to comply with any of the provisions of sections 2.1(a) or 2.2(a), a Bylaw Enforcement Officer may, in

accordance with section 4.3, serve a written notice on such person, which requires the person to remove any accumulation of discarded material or rubbish of any kind within thirty (30) days of service of such notice.

4.2. Where a notice has been served in accordance with subsection 4.1 and the Bylaw Enforcement Officer is satisfied that special circumstances exist, the Bylaw Enforcement Officer may set a time to comply, other than 30 days, that is reasonable in the circumstances.

4.3. The Bylaw Enforcement Officer must serve the notice:

- (a) on the owner of the real property on which the unsightly premises exists, by either:
 - (i) personal service; or
 - (ii) registered mail with acknowledgement of receipt to the address of the owner shown on the last real property assessment rolls provided that where the owner is a registered company, service may be accomplished according to the provisions of the *Company Act*; and
- (b) on the occupier of the real property on which the unsightly premises is located, by either:
 - (i) personal service;
 - (ii) delivery to a mail box or other receptacle for messages, if any, on the real property; or
 - (iii) posting on the real property; and
- (c) on any agent of the owner or occupier of the real property on which the unsightly premises is located, by either:
 - (i) personal service; or
 - (ii) registered mail with acknowledgement of receipt.

4.4. When a notice is not personally served in accordance with clause (a)(i), (b)(i) or (c)(i) of subsection 4.3, whichever is applicable, such order is deemed to have been served:

- (a) on the third day after mailing in accordance with clause (a)(ii) or (c)(ii), whichever is applicable;
- (b) upon delivery in accordance with clause (b)(ii); or

(c) upon posting in accordance with clause (b) (iii).

5. AUTHORITY TO ENTER PROPERTY

- 5.1. The Bylaw Enforcement Officer(s) of the District may enter, at all reasonable times, upon any real property in the District in order to ascertain whether the regulations contained in this bylaw are being complied with.
- 5.2. If the owner or the occupier of such property, or their agents fail to remove or clear the offending material from the real property as directed in the notice, District staff, or a contractor engaged by the District, may enter on the real property, at reasonable times and in a reasonable manner, to remove or clear the unsightly matter at the expense of the defaulting owner or occupier of the real property, or their agents.
- 5.3. Where material has been removed or cleared in accordance with subsection 5.2, the charges for such removal or clearance, if unpaid on or before December 31st in the year in which the charges are incurred, form part of the taxes payable on such property, as taxes in arrears.

6. APPEALS

- 6.1. A person upon whom a notice has been served may, by giving notice in writing to the Bylaw Enforcement Officer at least 72 hours prior to the expiration of the time given in the notice to remove or clear any offending material, appeal to Council, who must hear and determine the appeal by confirming, amending or rescinding the notice.

7. OFFENCES AND PENALTIES

- 7.1. Any person who:
- (a) violates or who causes or allows any of the provisions of this bylaw to be violated; or
 - (b) fails to comply with any of the provisions of this or any other bylaw or applicable statute; or
 - (c) neglects or refrains from doing anything required under the provisions of this bylaw; or
 - (d) obstructs, or seeks or attempts to prevent or obstruct a person who is involved in the execution of duties under this bylaw, is deemed to have committed an infraction of, or an offence against this bylaw and is liable on summary conviction to the penalties provided for in the *Offence Act*, and

each day that such violation is caused, or allowed to continue, constitutes a separate offence.

8. PREVIOUS BYLAW REPEAL

- 8.1. District of Wells Untidy and Unsightly Premises Bylaw No. 88-2007 (adopted February 5, 2008) is hereby repealed.

9. SEVERABILITY AND CITATION

- 9.1. If any part, section, sub-section, clause, or sub-clause of this bylaw is, for any reason, held to be invalid by the decision of a Court of competent jurisdiction, such decision does not affect the validity of the remaining portions of this bylaw.
- 9.2. This bylaw may be cited for all purposes as the “District of Wells Unsightly Premises Bylaw No. 135, 2014.”

READ A FIRST TIME this 19 day of August , 2014.

READ A SECOND TIME 19 day of August , 2014

READ A THIRD TIME 19 day of August , 2014

FINALLY READ AND ADOPTED this 16 day of September, 2014.

Robin Sharpe, Mayor

Katrina Leckovic, Chief Administrative Officer