

VILLAGE OF TAHSIS

BYLAW NO. 573

PROPERTY MAINTENANCE REGULATION BYLAW

WHEREAS the property values of the community are founded, in part, upon the maintenance of property in the Village;

AND WHEREAS unmaintained and unsightly properties have been found to exist from place to place throughout the Village;

AND WHEREAS the existence of such conditions is detrimental to the welfare of the residents of the Village and contributes substantially and increasingly to the deterioration of neighbourhoods;

AND WHEREAS the abatement of such conditions will improve the general appearance and image of the Village; and

WHEREAS Under its statutory powers, including Sections 7, 8, 12, 15, 16, 17, and 64 of the *Community Charter*, S.B.C. 2003, c. 26, the Council of the Village of Tahsis, in open meeting assembled, enacts as follows:

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PART ONE

Introductory Provisions

Title

1.1 This Bylaw is the “Village of Tahsis Property Maintenance Bylaw No. 573 2013”.

Definitions

1.2 In this Bylaw:

“Approved Containers”

means containers approved by the Underwriters Laboratories of Canada or another similar organization accredited by the Standards Council of Canada.

“Boulevard”

means the area between the curb lines or the shoulder of a roadway and the adjacent property line.

“Council”

means the Council of the Village of Tahsis.

“Derelict Boat”

means a vessel for travelling over water, propelled by oars, sails, or an engine that is stored on private or commercial property which

- (a) is partly dismantled, dilapidated, or non operative
- (b) is physically wrecked or disabled
- (c) is not undergoing repairs or maintenance.

“Derelict Motor Vehicle”

means any motor vehicle or trailer that was originally designed or manufactured to transport persons or property on a public highway, road, or street that is junked, scrapped, dismantled, disassembled, or in a condition otherwise harmful to the public health, welfare and safety.

“Garbage”

means discarded animal and vegetable matter and other food wastes.

“Highway”

means a highway as defined in the *Community Charter*.

“Inspector” includes:

- (a) a peace officer;
- (b) a bylaw enforcement officer;
- (c) a local assistant to the Fire Commissioner;
- (d) a representative of the Vancouver Island Health Authority;
- (e) a British Columbia Gas and Electrical Inspector;
- (f) a Building Inspector, or his or her designate;
- (g) any officer, employee or a representative of the Village appointed by resolution of Council under this Bylaw; and
- (h) a representative of any other governmental agency having jurisdiction in building and structure safety or the health and protection of persons and property.

“Motor Vehicle” means a motor vehicle as defined under the *Motor Vehicle Act*.

“Municipality” means the Village of Tahsis.

“Noxious Weeds”
Means weeds designated as noxious pursuant to the *Weed Control Act*.

“Nuisance” means a condition or situation that interferes with the use or enjoyment of a property, including but not limited to causing or creating the following:

- (a) prolonged or repetitive odourous emissions;
- (b) an accumulation or deposit of building or discarded materials, waste, soil, dirt, mud, or hazardous waste; or
- (c) a property so dilapidated or unclean as to be offensive to the community
- (d) Retaining walls and Rock walls on real property that are not structurally sound and plumb, unless specifically designed to be other than vertical.

“Occupant” Includes:

- (a) a person residing on or in property;
- (b) the person entitled to the possession of property if there is no person residing on or in the property; and
- (c) a leaseholder;

and shall include the agent of any such person.

“Order to Comply”
means an order, which is substantially in the form of Schedule A attached to and forming a part of this Bylaw, signed by the Corporate Officer.

“Owner” has the same meaning as owner under the Community Charter, S.B.C. 2003 c. 26

“Premises” means any lot, block or other area in which land is held or into which it is subdivided.

“Person” includes natural persons of either sex, associations, corporations, bodies politic, co-partnerships, whether acting by themselves or by a servant, agent or employee, and the heirs, executors, administrators, successors and assigns or other legal representative of such persons.

“Property Maintenance Standards”
means all the property maintenance standards prescribed in Part Two of this Bylaw.

“Public Place”
means an area or any lands under the care, management and jurisdiction of the Village of Tahsis including highways.

“Real Property”

means land, with or without improvements so affixed to the land as to make them in fact and law a part of it.

“Rubbish”

means decaying or non-decaying solid and semi-solid wastes, including but not limited to both combustible and non-combustible wastes, such as paper, trash, refuse, cardboard, waste material, cans, yard clippings, wood, glass, bedding, mattresses, crates, rags, barrels, boxes, lumber not neatly piled, scrap iron, tin and other metal, scrap paving material, discarded appliances, discarded furniture, dry vegetation, weeds, dead trees and branches, overgrown vegetation and trees which may harbor insect or rodent infestations or may become a fire hazard and piles of earth mixed with any of the above.

PART TWO

Property Maintenance Standards

Maintenance of Property

2.1 General

- 2.1.1 No owner or occupier of real property shall accumulate or permit to accumulate on any real property any:
 - (a) rubbish, garbage or other material that is noxious, offensive or unwholesome;
 - (b) stagnant water;
 - (c) derelict motor vehicles;
 - (d) derelict boats
- 2.1.2 No person shall deposit or throw bottles, broken glass, paper, cardboard, empty cartons, or other rubbish, trash or garbage in any open place within the Municipality.
- 2.1.3 No person shall permit the following unsightly conditions to develop on property of which he/she is the owner or occupier:
 - (a) an overgrown lawn, vegetation or shrubs that could constitute a fire hazard, or
 - (b) trees left unpruned as to cause a hazard to buildings, utility wires or the convenient or safe use of sidewalks, or
 - (c) an infestation of weeds.
- 2.1.4 Section 2.1.3 (c) of this Bylaw does not apply to the moderate presence of weeds ordinarily incidental to a property owned by a reasonably prudent owner.

2.2 Unsightly Real Property

- 2.2.1 Without in any way restricting the generality of the word “unsightly”, any one or more of the following conditions may render real property unsightly within the meaning of this Bylaw:
 - (a) dilapidated, broken or leaning fences;
 - (b) materials of any sort that are strewn on the real property rather than piled in a neat manner;
 - (c) construction materials where there is no apparent construction occurring on the real property for which the materials are required;
 - (d) furniture, other than furniture in reasonable condition designed specifically for outdoor use, mattresses, bedding or appliances stored or placed outside the premises or in open carport areas;

- (e) exterior finishing of buildings that has become worn, chipped, cracked or dilapidated through lack of maintenance or damaged to the point where the exterior finishing no longer forms an effective barrier to environmental elements;
- (f) unused landscaping materials including but not limited to dirt piles, bark mulch or discarded planting pots;
- (g) uncontained compost piles;
- (h) noxious weeds pursuant to the *Weed Control Act*;
- (i) landscaping that is dead, severely diseased, damaged, excessively overgrown or characterized by a lack of maintenance; or
- (j) dilapidated buildings, including accessory buildings and structures;
- (k) an accumulation of garbage, rubbish;
- (l) trees or other plants or limbs or branches of it, that are dead, diseased, decayed or damaged and not shall be removed from the property or otherwise pruned to remove the dead, diseased, dying or portions of the tree or plant;
- (m)
 - (i) signs and any fastening or supporting members that are damaged broken or excessively weathered or faded, or that have a worn, peeled or cracked finish, shall be removed or refinished and put in a good state of repair so that the signs are free from defects or faded lettering;
 - (ii) signs and sign structures that are not used for the purpose intended, not cared for or discarded shall be removed from the property; and
 - (iii) signs not maintained so that the information conveyed by the sign by colour, form graphic, illumination, symbol or writing is clearly legible.

2.3 Removal Required

Every owner or occupier of real property must remove, or cause to be removed, from such real property and from any buildings or structures located on such real property all:

- (a) accumulations of refuse, garbage, or other noxious, offensive, or unwholesome material;
- (b) accumulation of stagnant water;
- (c) unsanitary conditions;
- (d) noxious weeds;
- (e) weeds other than noxious weeds that contravene Section 2.1.3 of this Bylaw;
- (f) trees and other growths that create a hazard pursuant to Section 2.1.3.

2.4 Unsanitary Conditions - Insect and Pest Prevention

- 2.4.1 Every owner or occupier of real property must prevent, or cause to be prevented, the infestation of the property by rodents, vermin, caterpillars or other noxious or destructive insects or animals.
- 2.4.2 Where a property is or becomes infested by vermin, caterpillars, or other noxious or destructive insects or animals the owner or occupier shall cause the removal of the infestation within seventy-two (72) hours of notice from the Municipality.
- 2.4.3 Where despite the best efforts of the property owner or occupier an infestation referred to under Section 2.4.2 of this Bylaw cannot be removed because of the nature or scope of the infestation, the owner or occupier shall act diligently to remove the infestation as quickly as possible.

2.5 Sidewalks/Boulevards

To prevent a nuisance from occurring:

- 2.5.1 Every owner or occupier of real property shall keep any sidewalk adjoining the property clear of any nuisance material as defined or unsightly matter listed in Section 2.2.1 of this Bylaw.
- 2.5.2 Every owner or occupier of real property shall be responsible for and maintain any boulevard adjoining the property in a safe and tidy condition including, without limitation, by mowing any grass, and trimming any trees or shrubs located on the boulevard as would a prudent owner of such trees or shrubs.
- 2.5.3 No person shall willfully damage:
- (a) any boulevard, trees, shrubs, lawn, plants, bushes or hedge located in a public place
 - (b) anything erected or maintained adjacent to a highway for the purpose of lighting the highway
 - (c) any fence erected or maintained adjacent to any highway.

3.0 Hedges, Shrubs, Trees or other Plants

- 3.0.1 So as not to create a nuisance, all hedges, shrubs, trees or other plants shall be planted and maintained in a manner that does not:
- (a) obstruct the safety of the public;
 - (b) affect the safety of vehicular or pedestrian traffic;
 - (c) constitute an obstruction of view for vehicular traffic;
 - (d) wholly or partially conceal or interfere with the use of any hydrant or water valves; or
 - (e) overhang or encroach upon any pavement, sidewalk or travelled portion of any street or highway.

PART THREE

Inspection and Notice to Comply

Inspection

- 4.1 An inspector shall have the right to enter upon the property of any person at reasonable times with 2 weeks advance notice and in a reasonable manner for the purposes of inspecting the property and declaring whether the property is safe or otherwise not in compliance with the provisions of this Bylaw and to determine whether or not a Notice to Comply is required.

Notice to Comply

4.2 Contents of Notice to Comply

4.2.1 The Notice to Comply, attached as Schedule “A” and forming part of this bylaw, served by an Inspector pursuant to Section 4.3 shall state:

- (a) the civic address of the property;
- (b) the legal description of the property;
- (c) the particulars of the unsafe condition or non-compliance to be remedied;
- (d) that the unsafe condition or non-compliance must be remedied within the time prescribed in the notice; and
- (e) that if the owner or occupant fails to comply with the notice, the City will proceed to carry out the work required, and the cost of such work will be added to the taxes of the property as prescribed in Section 4.5.2.

4.3 Serving an Order to Comply

4.3.1 Where an owner or occupier of real land, or their agents fail to comply with any of the provisions of this Bylaw, an Inspector may in accordance with Subsection 4.3.3, serve an Order to Comply on such person, which requires the person to remove or clear the offending material from the real property within 14 days of service of such Order to Comply.

4.3.2 Where an Order to Comply has been served in accordance with Section 4.3.1 and the Inspector is satisfied that special circumstances exist, the Inspector may set a time to comply, other than 14 days, that is reasonable in the circumstances.

4.3.3 The Inspector must serve the Order to Comply:

- (a) on the owner of the real property on which the offending material is located, by either:
 - (i) registered mail with acknowledgement of receipt, to the address of the owner shown on the last real property assessment roll
 - (ii) personal service, or

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 offending material 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 offending material is located, by either:
 - (i) personal service, or
 - (ii) registered mail with acknowledgement of receipt.

- 4.3.4 When an Order to Comply is not personally served in accordance with (a)(i), (b)(i), or (c)(i) of Section 4.3.3, whichever is applicable, such order is deemed to have been served:
- (a) on the third day after mailing in accordance with paragraph 4.3.3 (a) (ii) or (c) (ii), whichever is applicable;
 - (b) upon delivery in accordance with paragraph 4.3.3 (b) (ii); or
 - (c) upon posting in accordance with paragraph 4.3.3 (b) (iii).

4.4 Authority to Enter Property in Connection with an Order to Comply

- 4.4.1 An Inspector may enter, at all reasonable times, upon any real property in the same manner as set out in Section 4.1 to determine whether the provisions of the directions of an Order to Comply are being complied with.

4.5 Non-Compliance

- 4.5.1 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 an Order to Comply, Village staff, or a contractor engaged by the Village, may enter on the real property with 2 weeks advance notice, at reasonable times and in a reasonable manner, to remove or clear the offending material at the expense of the defaulting owner or occupier of the real property, or their agents.
- 4.5.2 Where offending material has been removed or cleared in accordance with Section 4.3.1, the charges for such removal or clearance, if unpaid after ninety (90) days will form part of the taxes payable on such property, as taxes in arrears.

4.6 Appeals Against an Order to Comply

- 4.6.1 A person upon whom an Order to Comply has been served may appeal the order to comply, by giving notice in writing to the Corporate Officer of the Village at least 72 hours prior to the expiration of the time given in the Order to Comply to remove or clear the offending material, to Council, who must hear and determine the appeal and based on their opinion, whether or not the Order to Comply is to be confirmed, amended or rescinded.

PART FOUR

Severability and Citation

Severability and Citation

- 4.7.1 Of any part, section, sub-section, paragraph, sub paragraph, 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.

4.7.2 This bylaw is cited as the “Village of Tahsis Property Maintenance Regulation Bylaw No. 573, 2013”

PART FIVE

Repeal

Repeal

5.1 The Village of Tahsis Property Maintenance Bylaw No. 549, 2009” is hereby repealed.

READ for the first time this 15th day of October, 2013

READ for the second time this 15th day of October, 2013

READ for the third time this 3rd day of June, 2014

RECONSIDERED AND ADOPTED THIS 17th day of June, 2014

Original signed by Mayor Jude Schooner

MAYOR

Original signed by D. Chapman

CORPORATE OFFICER

I hereby certify that the foregoing is a true and correct copy of the original Bylaw No. 573, 2013 duly passed by the Council of the Village of Tahsis on this 17th day of June 2014

Original signed by D. Chapman
Corporate Officer



SCHEDULE A to BYLAW NO. 573

VILLAGE OF TAHSIS

Date:

ORDER TO COMPLY

Pursuant to the Property Maintenance Regulation Bylaw

Civic Address:

Legal Description:

You are hereby ordered to bring the condition of this property into conformity to the Property Maintenance Regulation Bylaw 573 by doing the following:

- (a)
- (b)
- (c)
- (d)

You have 14 days to correct the non-compliance to the Property Maintenance Regulation Bylaw 573.

Details on the Order to Comply process, including appeals, are detailed in the attached letter.