



AGENDA

Public Hearing
to be held on Monday, April 29, 2019 in the Council Chambers
Municipal Hall, 977 South Maquinna Drive

A. Call to Order

Mayor Davis will call the Public Hearing to Order at 7:00 PM

B. Opening by Mayor

This public hearing is being held in accordance with Division 3 of the *Local Government Act* regarding Property Maintenance Regulation Bylaw No. 614, 2019. Staff will introduce and describe the purpose of the Bylaw. After that, there will be an opportunity for public comment. Council members may then ask any questions. And we will end the meeting by considering a resolution. The procedures for public comment have been distributed and more copies are available from staff.

C. Introduction of Bylaw by Staff

Village of Tahsis Property Maintenance Regulation Bylaw, No. 614, 2019

Purpose of the Bylaw:

Property Maintenance Regulation Bylaw No. 614, 2019 clarifies and expands the standards for maintenance of property from the current bylaw. The bylaw applies to all land and buildings within the Village and to public places (sidewalks, boulevards and littering). The bylaw requires that property owners and occupiers are responsible for maintaining the land and buildings and for ensuring that work is done to bring land and buildings into compliance. The bylaw establishes the authorities for enforcing the bylaw through a two step process - a notice to comply and an order to comply. The bylaw was researched and drafted by legal counsel.

E. Public Comment

F. Questions from Council

G. Council Resolution

H. Closing

VILLAGE OF TAHSIS

BYLAW NO. 614

Being a Bylaw to Regulate the Maintenance of Property, Unsightly Properties and Nuisance Within the Village of Tahsis

The Council of the Village of Tahsis, in open meeting assembled, **ENACTS AS FOLLOWS:**

PART I – GENERAL PROVISIONS

Citation

- 1. This Bylaw may be cited as the “Property Maintenance Regulation Bylaw, 2019, No. 614.”

DEFINITIONS

- 2. (1) In this Bylaw:

“**Accessory Building**” means a Building or other structure, the use or intended use of which is ancillary to that of the principal Building situated on the same Land;

“**Boulevard**” means that portion of a street between the curb lines or the lateral lines of the surface of a roadway and the adjoining property line, exclusive of the sidewalk;

“**Building**” means a structure used or intended for supporting or sheltering any use or occupancy, but does not include a structure owned or occupied by the Village;

“**Bylaw Enforcement Officer**” means any of the persons designated as such under section 32;

“**Council**” means the Council of the Village;

“**Derelict Boat**” means a vessel for travel on or over water, propelled by oars, sails, or an engine, which meets any one or more of the following criteria:

- (a) fully or partially junked, scrapped, dismantled, disassembled, wrecked, disabled, or in a condition otherwise harmful to public health, welfare or safety;
- (b) not capable of being used or operated for its intended purpose;
- (c) not undergoing repairs or maintenance;

“**Derelict Vehicle**” means a Vehicle or trailer which meets any one or more of the following criteria:

- (a) fully or partially junked, scrapped, dismantled, disassembled, wrecked, disabled, or in a condition otherwise harmful to public health, welfare or safety;
- (b) not capable of being used or operated for its intended purpose;
- (c) not displaying a current and valid licence plate in accordance with the *Motor Vehicle Act* or any other applicable enactment;
- (d)

“Graffiti” means one or more letters, initials, symbols, marks, slogans, designs or drawings however made, on any sidewalk, fence, sign, wall, Building or any other structure or surface but does not include any of the following:

- (a) marks made accidentally;
- (b) a sign, public notice or traffic control mark authorized by the Director of Operations or his or her designate;
- (c) a sign authorized pursuant to the Village’s applicable bylaws regulating signs;
- (d) a public notice authorized by a Village bylaw or by a provincial or federal enactment;
- (e) a letter, symbol or mark authorized by the Owner or Occupier of the Land or Building on which the letter, symbol or mark appears;

“Land” means any lot, parcel, block or other area in which land is held or into which it is subdivided, but does not include:

- (a) Buildings or other improvements; or
- (b) a Public Place;

“Public Place” means any lot, parcel, block or other area of land under the care, management or jurisdiction of the Village, including Boulevards, sidewalks, parks and highways;

“Refuse” means any of the following:

- (a) rubbish;
- (b) trash;
- (c) garbage;
- (d) litter;
- (e) debris;
- (f) rubble;
- (g) demolition waste;
- (h) discarded or disused objects, materials or items;
- (i) junk;
- (j) filth;
- (k) unused or dismantled aircraft, electronic devices, or machinery;
- (l) old, discarded or unused mechanical or metal parts;
- (m) glass or plastic bottles or objects;

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- (n) tin cans or other metal containers;
 - (o) paper;
 - (p) glass;
 - (q) pipes;
 - (r) dilapidated furniture;
 - (s) inoperative appliances and other similar things;
 - (t) unused wood or wood products, excluding seasoned untreated wood or manufactured products cut in lengths for use as fuel in solid fuel burning appliances;

“Unsightly Property” includes Land with any one or more of the following characteristics or conditions to such an extent that as a whole the Land looks unkempt, unmaintained, dilapidated or in disrepair:

- (a) the accumulation of Refuse, Graffiti, Derelict Vehicles or Derelict Boats;
- (b) plants, bushes, hedges, shrubs, and trees that are decaying, dying or dead or are demonstrating uncontrolled growth;
- (c) uncontained compost piles;
- (d) unused landscaping materials;
- (e) any Building, other structure, fence, or external surface, or part thereof, that contains holes, breaks, rot, or that is crumbling or cracking, or is covered with rust or peeling paint, or any other evidence of physical decay, neglect, excessive use, or lack of maintenance; or
- (f) any other condition similar to those described in paragraphs (a) to (e), regardless of the condition of other properties in the neighbourhood in which the Land is located;

“Vacant Building” means a Building that is not lawfully occupied or that is not lawfully being used for its approved purpose for a continuous period of 60 consecutive days;

“Vehicle” includes:

- (a) a vehicle as defined in the *Motor Vehicle Act*; and
- (b) snowmobiles, motorcycles, off-road side-by-side vehicles and all-terrain vehicles;

“Village” means the Village of Tahsis;

“Weeds” means

- (a) plants set out in the *Schedule to the Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation* made under the *Community Charter*;
- (b) any plant designated as a weed by regulation made under the *Weed Control*

Act; and

- (c) other plants with similar properties which are likely to spread to or become a nuisance to other properties in the vicinity of the Land on which they are located;

“Zoning Bylaw” means the Village of Tahsis Zoning Bylaw, No.176, 1981.

- (2) A word or term not defined in subsection (1) will, in this Bylaw, be given the meaning it has in the *Community Charter or Local Government Act*.

APPLICATION

3. This Bylaw applies to all Land and Buildings within the Village and to Public Places to the extent provided for in sections 14, 15 and 30.
4. Every Owner of Land or a Building is responsible for maintaining the Land or Building, as applicable, in compliance with this Bylaw and for carrying out or causing to be carried out any work required under this Bylaw to bring such Land or Building into compliance with this Bylaw.
5. Every Occupier of Land or a Building must ensure the Land or Building, as applicable, is maintained in compliance with this Bylaw and the Occupier may, in addition to the Owner of the Land or Building, be held responsible for carrying out or causing to be carried out any work required under this Bylaw to bring such Land or Building into compliance with this Bylaw.

SEVERABILITY

6. If any portion of this Bylaw is held to be invalid by a court of competent jurisdiction, the invalid portion may be severed and such invalidity will not affect the validity of the remaining portions of this Bylaw.

INTERPRETATION

7. Where there is a reference in this Bylaw to an enactment of the Province of British Columbia, that reference will include a reference to any prior or subsequent enactment of the Province of British Columbia of like effect and, unless the context otherwise requires, all statutes referred to in this Bylaw are enactments of the Province of British Columbia.

REPEAL

8. The following Bylaw is hereby repealed: “Property Maintenance Regulation Bylaw 573 – 2013”.

PART II – STANDARDS FOR MAINTENANCE OF PROPERTY

UNSIGHTLINESS, UNSANITARY CONDITIONS AND GRAFFITI

9. (1) An Owner or Occupier must not cause or permit Refuse or other noxious, offensive or unwholesome objects, materials or items to collect or accumulate on or around the Land of that Owner or Occupier.
- (2) An Owner or Occupier must not cause or permit the Land of the Owner or Occupier to become or remain an untidy or Unsightly Property.

- (3) An Owner or Occupier of Land must not cause or permit to exist on the Land of that Owner or Occupier any unsanitary condition or other condition that is a health, fire or other hazard.
 - (4) An Owner or Occupier must cause the Land of that Owner or Occupier to be kept clear from dilapidated, collapsed or unfinished Buildings.
 - (5) An Owner or Occupier must not place Graffiti or permit Graffiti to remain on the Land or a Building of that Owner or Occupier so as to be visible from a Public Place or from any Land other than the Land on which the Graffiti has been placed.
10. Section 9(1) does not apply to the lawful storage of materials in or on any Land that is zoned for non-residential uses under the Zoning Bylaw, if a lawful use requiring those materials is conducted on the Land and the materials are stored in a tidy and orderly manner.

PLANTS, WEEDS AND LAWN OVERGROWTH

11. (1) An Owner or Occupier must not cause or permit Weeds or other unintended plants to grow or accumulate on the Land of that Owner or Occupier, including on or near the perimeter of that Land so as to create a fire hazard or obstruct access to that Land in the case of an emergency.
- (2) An Owner or Occupier must not cause or permit the lawn on the Land of that Owner or Occupier to grow in height beyond the prevailing standard in the neighbourhood in which the Land is located, but in any event, not beyond 25.4 cm. (10 in.) in height.
- (3) An Owner or Occupier must not cause or permit any trees, hedges, bushes, shrubs or other plant growth that is a hazard to the safety of persons, likely to damage public property, or seriously inconvenience the public, to remain on the Land of that Owner or Occupier.

DERELICT BOATS AND VEHICLES AND OTHER ITEMS

12. Subject to subsection (2), an Owner or Occupier must not cause or permit any of the following to be stored or to accumulate on the Land of the Owner or Occupier:
- (a) all or any part of a Derelict Boat;
 - (b) all or any part of a Derelict Vehicle;
 - (c) Refuse.

DRIVEWAYS, WALKWAYS AND FENCES

13. (1) An Owner or Occupier must maintain driveways, walkways, steps, parking spaces, and loading areas on the Land of the Owner or Occupier in a clean, fit, and safe condition, free from Refuse or other noxious, offensive or unwholesome objects, materials or items so as to ensure safe passage under normal use and weather conditions.
- (2) An Owner or Occupier must maintain any outdoor lighting installation and its supports on the Land of the Owner or Occupier in safe and proper working condition.
- (3) An Owner or Occupier must maintain any fence on the Land of that Owner or Occupier in good condition and repair.

SIDEWALKS AND BOULEVARDS

14. An Owner or Occupier of any Land abutting or fronting upon a portion of a sidewalk must cause that portion of the sidewalk to be cleared and kept clear of all snow, ice, dirt, Refuse or other noxious, offensive or unwholesome objects, materials or items.
15. An Owner or Occupier of any Land must cause the portion of the Boulevard that is located in front of or adjacent to such Land to be maintained:
 - (a) free of Weeds;
 - (b) so that the grass is trimmed to a height not higher than 25.4 cm. (10 in.);
 - (c) kept clear of all Refuse or other noxious, offensive or unwholesome objects, materials or items.

PEST INFESTATIONS

16. An Owner or Occupier of any Land or Building must prevent or cause to be prevented any infestation of such Land or Building by rodents, vermin or other noxious or destructive insects or animals.

DRAINAGE

17. (1) An Owner or Occupier must ensure that all surface water originating from the Land of the Owner or Occupier is contained on that Land and is drained from that Land in manner which does not result in water entering into a Building, including a basement of a Building.
- (2) An Owner or Occupier must not cause or permit water from the Land of the Owner or Occupier to
 - (a) drain onto any adjoining Land or other property, or
 - (b) accumulate or pond on the Land of the Owner or Occupier,unless the drainage or ponding occurs naturally.
- (3) An Owner or Occupier must not cause or permit an excavation or basement area left after a Building is demolished to become or remain filled with water.

CONSTRUCTION AND DEMOLITION

18. An Owner or Occupier must ensure that all construction conducted on the Land of the Owner or Occupier is carried out in a tidy and orderly manner, and that all construction materials and equipment are properly and safely stored when not in use.
19. Upon demolition of any Building on the Land of the Owner or Occupier, the Owner or Occupier must within two (2) weeks after the demolition is completed, remove or cause to be removed from that Land all debris and other material from the demolition.

20. An Owner or Occupier of Land must, both immediately upon completion of the demolition of a Building on the Land of the Owner or Occupier and within 24 hours of receipt of written notice from a Bylaw Enforcement Officer, cause:
- (a) any basement or other excavation remaining after the demolition of the Building to be filled in or covered over to lot grade level; and
 - (b) the Land to be left in a tidy condition.

VACANT BUILDINGS

21. (1) An Owner of a Vacant Building must ensure that the Vacant Building is secure from unauthorized entry.
- (2) An Owner of a Vacant Building must secure the Vacant Building to the satisfaction of a Bylaw Enforcement Officer within 24 hours of receipt of written notice from the Bylaw Enforcement Officer.

ACCESSORY BUILDINGS

22. An Owner or Occupier must ensure that every Accessory Building on the Land of the Owner or Occupier is constructed and maintained with suitable and uniform materials, free from health, safety and fire hazards, and is kept in good repair and protected by paint, preservatives or other weather-resistant material.

RETAINING WALLS

23. An Owner or Occupier must ensure that retaining walls on Land of the Owner or Occupier are constructed in a structurally sound and plumb manner, unless specifically designed to be other than vertical, and are maintained in good repair and free from hazards.

STRUCTURAL INTEGRITY

24. An Owner or Occupier must ensure that each Building on the Land of the Owner or Occupier, and the structural members of that Building, are maintained in good repair and in a manner that provides sufficient structural integrity so as to sustain safely their own weight and any additional loads and influences to which they may be subjected through normal use.

FOUNDATIONS

25. An Owner or Occupier must ensure that foundation walls and other supporting members of each Building on the Land of the Owner or Occupier are maintained in good repair and prevent or inhibit the entrance of moisture and water into the Building.

EXTERIOR DOORS AND WINDOWS

26. (1) An Owner or Occupier must ensure that exterior doors, windows, skylights, and hatchways of each Building on the Land of the Owner or Occupier are maintained in good repair and weather tight.
- (2) An Owner or Occupier must ensure that openings, other than doors and windows, in the exterior walls of each Building on the Land of the Owner or Occupier are effectively sealed to prevent the entry of rodents, vermin or other noxious or destructive insects or animals.

- (3) An Owner or Occupier must ensure that latching and locking devices on exterior doors and windows of each Building on the Land of the Owner or Occupier are maintained in good working order.
- (4) An Owner or Occupier must ensure that doors providing automobile access to garages in each Building on the Land of the Owner or Occupier are maintained at all times in good working order and repair.

ROOF AND ROOF DRAINAGE

27. (1) An Owner or Occupier must ensure that the roof, including the flashing, fascia, soffit, and cornice, of each Building on the Land of the Owner or Occupier is maintained in a weather tight condition.
- (2) An Owner or Occupier must ensure that the eavestroughs, downspouts and roof drains on each Building on the Land of the Owner or Occupier are kept in good repair, and free from leaks.

STAIRS, BALCONIES AND PORCHES

28. (1) An Owner or Occupier must ensure that stairways, balconies, porches and landings in, on or appurtenant to each Building on the Land of the Owner or Occupier are maintained in a safe and clean condition, in good repair, and free from holes, cracks, excessive wear and warping, and hazardous obstructions.
- (2) An Owner or Occupier must ensure that handrails and guards on each Building on the Land of the Owner or Occupier are maintained in good repair, and that any replacement of them conforms to the *B.C. Building Code*.

EXTERIOR WALLS, COLUMNS AND PROJECTIONS

29. (1) An Owner or Occupier must ensure that exterior walls, parapet walls and columns of each Building, and its components, on the Land of the Owner or Occupier are maintained in good repair, weather-tight and free from loose and unsecure objects and material, and in a manner so as to prevent or retard deterioration due to weather.
- (2) An Owner or Occupier must ensure that the protective or decorative finishes of all exterior surfaces of each Building on the Land of the Owner or Occupier are maintained in good repair to prevent deterioration that negatively affects the appearance of the Building.
- (3) An Owner or Occupier must ensure that Graffiti, painted slogans, smoke damage or other markings, stains or defacement appearing on any exterior surface of a Building on the Land of the Owner or Occupier are removed, and, if necessary to maintain the exterior surface, the surface of these areas is restored or resurfaced so as to be coordinated to the exterior finish of the rest of the Building.
- (4) An Owner or Occupier must ensure that canopies, marquees, signs, awnings, screens, grilles, stairways, fire escapes, pipes, ducts, standpipes, air conditioners and all similar equipment, attachments, extensions and their supporting members attached to or forming part of a Building on the Land of the Owner or Occupier are maintained in good repair, properly and safely anchored, and protected from the elements by paint or other protective coating to prevent deterioration, decay and rust.

- (5) An Owner or Occupier must ensure that exterior wall facings, projections, cornices and decorative features of each Building on the Land of the Owner or Occupier are maintained in good repair, and are safely and properly anchored.

PART III - NUISANCES

LITTERING

30. A person must not deposit or throw Refuse or other noxious, offensive or unwholesome objects, materials, or items on any Public Place or any Land.

ODOUR AND DISTURBANCES

31. An Owner or Occupier must not emit, make or cause or permit to be emitted, made or caused on or from the Land or any Building of the Owner or Occupier any odour, vibration, illumination, dust or other matter which disturbs or is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity of that Land or Building.

PART IV - ENFORCEMENT

BYLAW ENFORCEMENT OFFICERS

32. The Council hereby designates each of the following persons as a bylaw enforcement officers for the purpose of enforcement of this Bylaw:
- (a) a member of the Royal Canadian Mounted Police;
 - (b) the corporate officer of the Village;
 - (c) a bylaw enforcement officer appointed by the Council under section 36 of the *Police Act*;
 - (d) a local assistant to the fire commissioner under section 6 of the *Fire Services Act*;
 - (e) an environmental health officer or other authorized representative of the Vancouver Island Health Authority;
 - (f) a gas inspector for the Village;
 - (g) an electrical inspector for the Village;
 - (h) a building inspector for the Village.

ENTRY ON PROPERTY

33. (1) A Bylaw Enforcement Officer may, at all reasonable times, enter any Land, Building or Public Place to ascertain whether the requirements of this Bylaw are being complied with.
- (2) Despite subsection (1), a Bylaw Enforcement Officer must, before entering a lawfully occupied dwelling unit in a Building, either:
- (a) obtain the consent of the Occupier of the dwelling unit, or

- (b) give to the Occupier of the dwelling unit at least 24 hours' written notice of the entry and the reasons for it.
- (3) A person must not prevent or obstruct, or attempt to prevent or obstruct, a Bylaw Enforcement Officer from entering any Land, Building or Public Place.

NOTICE TO COMPLY

34. In addition to any other remedy under any enactment or otherwise available at law, if a Bylaw Enforcement Officer determines that the Owner or Occupier of Land or a Building or any other person, does not comply with this Bylaw, the Bylaw Enforcement Officer may, by written notice, require the Owner, Occupier or other person to comply with this Bylaw.
35. Each notice pursuant to this Bylaw must contain the following:
- (a) in the case of a notice to an Owner or Occupier,
 - (i) the name of the Owner or Occupier to which it is directed, and the municipal address or location of any Land or Building to which it applies;
 - (ii) particulars to describe how the Owner or Occupier fails to comply with this Bylaw;
 - (iii) reasonable particulars of what is required in order to bring the Owner or Occupier into compliance with this Bylaw;
 - (iv) a reasonable time within which to complete any repairs, work or other actions necessary to bring the Owner or Occupier into compliance with this Bylaw;
 - (v) a statement that if such repairs, work or other actions are not completed within the time given, the matter may proceed to Council for an order to comply; and
 - (vi) a statement that if such repairs, work or other actions are not completed within the time given in an order to comply issued by the Council, the Village may proceed to carry out such repairs, work or other actions, and the costs of the Village in doing so will be charged to the Owner or Occupier and may be recovered as a debt to the Village, and if not paid by December 31st of the year in which the costs are incurred, will be added to the property taxes for the Land and Building of the Owner or Occupier as taxes in arrears;
 - (b) in the case of a notice to another person,
 - (i) the name of the person to which it is directed, and the municipal address or location of any Land or Public Place to which it applies;
 - (ii) particulars to describe how the person fails to comply with this Bylaw;
 - (iii) reasonable particulars of what is required in order to bring the person into compliance with this Bylaw;
 - (iv) a reasonable time within which to complete any work or other actions necessary to bring the person into compliance with this Bylaw;
 - (v) a statement that if such work or other actions are not completed within the time given, the matter may proceed to Council for an order to comply; and
 - (vi) a statement that if such work or other actions are not completed within the time given in an order to comply issued by the Council, the Village may proceed to carry out such work or other actions, and the costs of the Village in doing so will be charged to the person and may be recovered as a debt to the Village.

36. Any notice required to be given pursuant to this Bylaw must be served by one of the following methods:
- (a) being personally delivered to the person to whom it is addressed;
 - (b) being left with a person apparently over the age of sixteen years at the location of the Land or Building to which it relates;
 - (c) being mailed by registered mail to the most recent address of the person to whom it is addressed as shown on the Village's property tax records; or
 - (d) being posted in a conspicuous place on the Land or Building to which it relates, including near the front entrance of any Building on the Land.

ORDER TO COMPLY

37. If an Owner or Occupier fails to comply with a notice from a Bylaw Enforcement Officer, Council may order the Owner or Occupier to comply, within a time specified in the order, with the requirements of this Bylaw that are not being met in respect of the Land or Building of the Owner or Occupier.
38. Prior to Council making an order under section 37, the Owner or Occupier of the Land or Building shall be given the opportunity to be heard by Council in respect of the matter contained in the notice from the Bylaw Enforcement Officer.
39. If the Owner or Occupier fails to comply with an order of Council under section 37, the Village, by its employees, contractors or agents, may act in accordance with section 17 of the *Community Charter* to fulfil the requirements of the order and to recover the costs of doing so as a debt due to the Village from the Owner or Occupier of the Land or Building which is the subject of the order.
40. If any of the costs of carrying out the order of Council under section 37 remains unpaid on December 31st of the year in which the costs were incurred, the costs may be added to the property taxes for the Land and be recovered as taxes in arrears.

PENALTIES

41. (1) A person who
- (a) contravenes, violates or fails to comply with any provision of this Bylaw,
 - (b) suffers or permits any act or thing to be done in contravention or violation of this Bylaw, or
 - (c) fails to do anything required by this Bylaw,
- commits an offence and will be liable upon conviction of a fine of not more than the total of the following:
- (d) \$10,000 (Ten Thousand Dollars),
 - (e) the costs incurred by the Village in investigating and prosecuting the person, and
 - (f) any other penalty or order permitted to be imposed pursuant to the *Community Charter* or the *Offence Act*.

- (2) Each day that an offence against this Bylaw continues or exists will be deemed to be a separate and distinct offence.

EFFECTIVE DATE

42. This bylaw comes into force upon adoption.

READ A FIRST TIME the 2ND day of April 2019

READ A SECOND TIME the 2nd day of April 2019

PUBLIC HEARING held the 29th day of April 2019

READ A THIRD TIME the 7th day of May 2019

ADOPTED on the 21st day of May 2019

Reconsidered, Finally Passed and Adopted this 21st day of May, 2019

Mayor

Chief Administrative Officer

I hereby certify that the foregoing is a true and correct copy of the original Bylaw No. 614, 2019 duly passed by the Council on this 21st day of May 2019.

Corporate Officer