

VILLAGE OF MIDWAY
BYLAW NO. 525, 2020
A BYLAW TO REGULATE PROPERTY MAINTENANCE AND STANDARDS

WHEREAS the intent of the Property Maintenance and Standards Bylaw is to protect and enhance the well-being of the community from nuisances, graffiti and unsightly conditions, and to prescribe standards for the maintenance of private property;

AND WHEREAS pursuant to Sections 8(3)(h) and 64 of the *Community Charter*, the Village is authorized to regulate, prohibit and impose requirements in relation to nuisances, refuse, garbage, or other material that is noxious, offensive or unwholesome, unsanitary conditions, graffiti, unsightly conditions, weeds or other growths that Council considers should be removed, cut down or trimmed on a property;

The Council of the Village of Midway, in open meeting assembled, hereby enacts as follows:

TITLE

1. This Bylaw may be cited as “Property Maintenance and Standards Bylaw 525, 2020.

DEFINITIONS

2. In this Bylaw:
 - a) **“Bylaw Enforcement Officer”** means a person or persons appointed by Council as a Bylaw enforcement Officer;
 - b) **“Council”** means the Village of Midway;
 - c) **“Graffiti”** means drawing, printing or writing scratched, sprayed, painted, scribbled or placed on a wall, fence, or other surface which is visible from a highway, sidewalk, park or other public place, but does not include a sign for which a permit has been issued by the Village;
 - d) **“Noxious Weeds”** means those weeds designated by the regulations under the *Weed Control Act, (British Columbia)*.
 - e) **“Order”** means an order under Sections 7 and 8 of this Bylaw;
 - f) **“Owner”** means the registered Owner of Real Property, or an authorized agent of the Owner;

- g) **“Person”** means an individual, owner, occupier, association, corporation, firm, political body, co-partnership or similar organization and their heirs, executors, successors and assignees, or other legal representative, whether action alone or by servant, agent or employee;
- h) **“Real Property”** means any land and any structures and improvement thereon in the Village;
- i) **“Rubbish”** means filth, rubbish, discarded materials, noxious, offensive or unwholesome matter including, but not limited to:
- Decaying or non-decaying solid or semi-solid wastes, food wastes, market wastes;
 - Combustibles such as paper, cardboard, yard trimmings and brush, logs, stumps, wood waste;
 - non-combustibles such as metal cans and metal materials, plastics, leathers, glass containers, glass, crockery, glass materials, dirt, ashes from fireplaces and on-site incinerators, street sweepings;
 - bulky wastes such as furniture, household items and materials, appliance, tires, derelict or dismantled bicycles and parts, vehicle parts, derelicts lawn equipment, construct and demolition waste, trade waste;
 - derelicts, dismantled, unused, dilapidated, inoperable vehicles, derelict recreational vehicles, campers, utility trailers, boat trailers, transport trailers, derelict boats, derelict vessels, derelict machinery, derelict mechanical and metal parts;
- j) **“Temporary Shelter”** means a structure, improvement, shield or cover that protects people or things and includes a tent, lean-to or other shelter made of cardboard, tarpaulin, plastics, metal, logs, brush, branches, or other materials or things;
- k) **“Vehicle”** means any vehicle as defined in the *Motor Vehicle Act* and shall include, but not be limited to, snowmobiles, dirt bikes, and all-terrain vehicles;
- k) **“Village”** means the Village of Midway;

PROPERTY MAINTENANCE STANDARDS

3. An owner or occupier of Real Property, must not cause, permit, suffer or allow any of the following to occur, accumulate or remain on the property:
- a) Rubbish, or other material that is noxious, offensive or unwholesome;
- b) unsanitary conditions, including water, other than in accordance with a Bylaw of the Village of Midway; or an enactment of British Columbia or Canada;

- c) Graffiti and unsightly conditions; and
 - d) Noxious Weeds.
4. An owner or occupier of Real Property must comply with the following:
- a) ensure that lawn grass is trimmed so that its height does not exceed 20 centimetres;
 - b) remove diseased or hazardous trees that have been identified in an Order made under this bylaw as a substantial risk to Village owned property and infrastructure in the vicinity;
 - c) vegetation visible from roads, public areas, parks, trails, neighbours and adjacent lands must be maintained in a neat and orderly manner, and healthy condition, including being adequately pruned, trimmed, watered and cultivated appropriate to the species, and maintained free of disease and parasites;
 - d) overgrown, unkempt, or uncultivated vegetation must be removed, cut down as close to the ground as possible, or cared for in accordance with section 4a) and c);

AUTHORITY TO ENTER

5. Bylaw Enforcement Officers are hereby authorized to enter at all reasonable times and in a reasonable manner upon any property within the Village for the purposes of determining if all regulations, prohibitions and requirements of this bylaw are met.

ORDERS

6. When a Person has failed to comply with obligations under this Bylaw, the Village Chief Administrative Officer or Bylaw Enforcement Officer may issue a written Order to that Person that requires that Person to remove the contravention or rectify the breach of this Bylaw:
- a) within 30 days; or
 - b) immediately, if the contravention relates to a health, safety or environmental matter of immediate concern; and
 - c) the Order under this Section will specify steps that must be taken and a time frame and may address any conditions or circumstances to the property and the Person to whom the Order is directed.

7. An Order made under this Bylaw is sufficiently delivered when a copy is:
 - (a) mailed to the Owner of the property by ordinary or express mail;
 - (b) personally, delivered to the Owner of the Real Property or to an occupant who is an adult;
 - (c) in the case of a corporate Owner or occupier, by delivering it by registered mail to its registered officer or business premises, or by personally delivering it to a director, manager, secretary or another executive officer; or
 - (d) posted on the Real Property that is the subject of the notice by a Bylaw Enforcement Officer if the Owner or occupier cannot be found or appears to refuse delivery.

APPEALS

8. A Person in receipt of an Order under this Bylaw may contest the Order by informing the Village Chief Administrative Officer in writing within 7 days of receipt, that the Person wishes to appear before the Council to appeal the Order.
9. Upon receipt of an appeal, the Order will be suspended until heard by Council and a decision given.
10. Upon hearing a Person in receipt of an Order, staff and any other affected persons, Council may affirm, vary or revoke the Order.

REMEDIATION

11. Where a Person fails to comply with an Order and has not contested the Order, the Village or its agents or contractors may enter upon the Real Property to fulfill the requirements of the Order at the expense of that Person and may recover the costs incurred by the Village as a debt.
12. If the costs incurred by the Village for work done or services provided to Real Property are not paid in full on or before December 31 of the year in which the work was done or services provided, the amount owing may be collected as a debt due and recoverable in a court of competent jurisdiction, or in the same manner as for the property taxes, plus an administration fee of fifty (\$50) dollars in accordance with Sections 231 and 258 of the *Community Charter*.

ENFORCEMENT, OFFENCE AND PENALTY

13. This Bylaw may be enforced by the Village Chief Administrative Officer or by a Bylaw Enforcement Officer, who may be assisted by other employees, officers, authorized agents or contractors of the Village, or a peace officer, and may include RCMP as considered necessary in the circumstances.

14. A Person who:

- a) contravenes, violates or fails to comply with any provision of, or Order issued under, this Bylaw;
- b) suffers or allows any act or thing to be done in contravention of this Bylaw or any Order issued under this Bylaw; or
- c) fails or neglects to do anything required to be done under this Bylaw or any Order issued under this Bylaw;

commits an offence against this Bylaw which may be enforced by any means permitted by the *Community Charter*, including by ticket in the form prescribed by Regular to same.

15. For certainty, a Person who commits an offence against this Bylaw is liable to pay a fine of not less than \$150.00 and not more than Ten Thousand (\$10,000.00) Dollars, and the cost of prosecution;

16. A Person who interferes, hinders, or obstructs anyone designated in Sections 5 and 14 in the performance of their duties under this Bylaw is liable to pay a fine of \$500.00.

17. Where the offence is a continuing one, each day that the offence is continued shall constitute a separate offence.

SEVERABILITY

18. If any section or phrase of this Bylaw is for any reason held to be invalid by a decision of any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this Bylaw.

REPEAL

29. The *“Village of Midway Unsightly Premises Bylaw 390, 2007”* and all amendments are repealed.

READ a first time on the 20th day of April , 2020.

READ a second time on the 20th day of April , 2020.

READ a third time on the 20th day of April , 2020.

ADOPTED the 4th day of May , 2020.

Mayor

Chief Administrative Officer