

DISTRICT OF BARRIERE

BY-LAW NO. 0023

A BY-LAW PROVIDING FOR THE COMMUNITY IMPROVEMENT AND REMEDIATION OF UNSIGHTLY PROPERTY WITHIN THE DISTRICT OF BARRIERE

The Council of the District of Barriere, in open meeting assembled, enacts as follows:

1. This by-law may be cited as “District of Barriere Community Improvement and Unsightly Property By-law No. 0023, 2008”
2. The purpose of this by-law is to promote the maintenance of property within the District of Barriere in a tidy, pleasant and safe condition, and to minimize unsightly property.
3. No person, persons, corporations or other body shall cause any nuisance within the District and no owner or occupant of property within the District shall cause, suffer or permit any nuisance in, about or upon the lands and premises.

DEFINITIONS

4. In this by-law, unless the context otherwise requires:
 - (a) “Accumulation” means a collection, either scattered, amassed or piled, existing at the time of inspection;
 - (b) “Container” includes a dumpster, garbage can, garbage bin or other receptacle designed, intended or used to hold rubbish, discarded materials and debris;
 - (c) “District” means the District of Barriere
 - (d) “Inspector” means anyone who is authorized by the Chief Administrative Officer or City Council to enter and inspect property in accordance with this by-law;
 - (e) “Occupant” includes, but is not limited to:
 - (i) one or more persons residing on or in property
 - (ii) the person or person entitled to the possession of property if there is no person residing on or in the property; and
 - (iii) one or more leaseholders;

and shall include the agents of any such person or persons;

- (f) “Owner” means one or more persons who has any right, title, estate or interest in property, other than that of an occupant, and shall include the agents of any such persons;
- (g) “Person” includes natural person of either sex, associations, corporations, political bodies, 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;
- (h) “Property” means all real property, including, but not limited to, front yards, side yards, backyards, driveways, walkways and sidewalks and shall include any structure or fence located on such real property;
- (i) “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, glass, bedding, mattresses, crates, rags, barrels, boxes, lumber not neatly piled, scrap iron, tin and other metal, scrap paving material, construction and demolition waste, unlicensed, dilapidated, unused or stripped automobiles and other vessels, tires, machinery, mechanical or metal parts, discarded or dilapidated appliances, discarded or dilapidated furniture, ashes from fireplaces and on-site incinerators, yard clippings and brush, wood, dry vegetation, dirt, weeds, dead trees and branches, stumps, 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.
- (j) “Unsightly”, in addition to its common dictionary meaning and regardless of the condition of other properties in the neighbourhood, shall include property having any one or more of the following characteristics:
 - (i) the storage, location or accumulation visible to a person standing on a public highway or on nearby property, or in a building or structure situate on a public highway or nearby property, of filth, rubbish, graffiti, or any other discarded materials;
 - (ii) the untidy storage, location or placement of building materials on a site where construction is not taking place, except where they cannot be seen from a public highway or from a nearby property, or from a building or structure situate on a public highway or nearby property.
 - (iii) landscaping that is dead, characterized by uncontrolled growth or lack of maintenance, or is damaged.

- (iv) fences characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay or neglect or excessive use or lack of maintenance;
- (v) a lowering in quality of the condition or appearance of a structure or parts thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or any other evidence of physical decay or neglect or excessive use or lack of maintenance; or
- (vi) any other similar conditions of disrepair, dilapidation, or deterioration.

PROHIBITIONS

5. No owner or occupant of property within the District of Barriere shall permit or allow the property to become or remain unsightly.
6. No person shall:
 - (a) cause or permit water, rubbish, or noxious, offensive or unwholesome matter to collect or accumulate around lands or buildings owned or occupied by them;
 - (b) cause or permit rubbish to overflow from or accumulate around any container situate on any property owned or occupied by them; and
 - (c) without limiting the generality of the foregoing, no person shall, in respect to property to which a Building Permit has been issued by the Thompson Nicola Regional District, cause or permit demolition waste or trade waste to accumulate on the property.
7. No owner or occupant of property within the District of Barriere shall permit or allow an infestation of the property by caterpillars, termites or other noxious or destructive insects or rodents to occur or to remain.
8. No owner or occupant of property within the District of Barriere shall allow accumulation of dead landscaping, noxious weeds or other growths to occur or to remain.

INSPECTION AND NOTICE

9. An inspector shall have the right to enter upon the property of any owner or occupant at reasonable times and in a reasonable manner for the purposes of inspecting the property and declaring whether the property is unsightly or otherwise not in compliance with the provisions of this by-law.

10. Upon declaring property to be unsightly or otherwise not in compliance with the provisions of this by-law, an Inspector may issue a Notice to one or more owners or occupants of the property.
11. A notice issued under section 10 herein must state:
 - (a) the civic address of the subject property;
 - (b) the legal description of the subject property;
 - (c) the particulars of the unsightly nature of the property or the non-compliance to be remedied;
 - (d) that the unsightly nature of the property or the non-compliance must be remedied within 14 days of the date of delivery of the Notice; and
 - (e) that if the owner or occupant fails to comply with the Notice, the District will proceed to carry out the work required, and the cost of such work will be added to the taxes of the property, and the owner or occupant or both may be subjected to prosecution for an offence under this by-law.
12. A Notice issued under section 10 herein may give specific instruction so remedy the unsightly nature of the property or the non-compliance with this by-law including, but not limited to, any one or more of the following instructions:
 - (a) remove unsightly accumulations of filth, materials or rubbish from the property;
 - (b) clean, stack or cover any material;
 - (c) clear the property of brush, trees, noxious weeds or other growths;
 - (d) cut grass or weeds present on the property;
 - (e) prune trees or shrubs;
 - (f) clear the property of caterpillars or other noxious or destructive insects; and
 - (g) otherwise remediate, maintain or repair the property so as to bring it into compliance with this by-law.

NON-COMPLIANCE

13. If an owner or occupant fails to comply with a Notice issued under section 10 herein, the District, by its employees or other persons, at reasonable times and in a reasonable manner, may enter the property and effect such compliance at the expense of the owner or occupant who has failed to comply.
14. In the event that the person who has failed to comply with a Notice issued under section 10 herein fails to pay the costs of compliance before the 31st day of December in the year that the compliance was effected, the costs shall be added to and form part of the taxes payable on the property as taxes in arrears.

OFFENCES AND PENALTIES

15. Every person who violates any of the provisions of this by-law, or who suffers or permits any act or thing to be done in contravention or violation of, or neglects to do or refrains from doing anything required to be done pursuant to any provision of this by-law or any Notice issued pursuant hereto, shall be deemed to have committed an offence against this by-law and shall be liable, upon summary conviction to a fine not less than the sum of \$100 and not exceeding the sum of \$2,000 and in default of payment thereof forthwith or within such a time as the presiding Provincial Court Judge or Justice of the Peace shall direct, the fine imposed shall be recoverable under the provisions of the Offence Act.
16. Each day a violations, contravention or breach of this by-law continues shall constitute a separate and distinct offence.
17. Notwithstanding anything in this by-law, every person who violates any of the provision of this by-law may be served with a violation notice and shall be permitted to pay a fee in the amount of:

<i>Description of Offence</i>	<i>Section #</i>	<i>Fine Amount</i>
Cause or permit rubbish to collect	6 (a)	\$100
Deposit rubbish in open space	6 (a)	\$100
Permit rubbish to accumulate	6 (b)	\$100
Fail to contain demolition waste	7 (a)	\$100
Allow unsightly property	7	\$100
Fail to clear unsightly growth	8	\$100
Fail to clear noxious insects	8	\$100

18. Prosecution of a person pursuant to section 15 of this by-law does not exempt the person from the provisions of section 11 through 13 of this by-law.

GENERAL

19. If any portion of this by-law is held to be invalid by a decision of a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this by-law.
20. The District, any By-law Enforcement Officer who inspects any Property under this by-law, or any other person who performs any work on behalf of the District in accordance with this by-law, is not liable for any damages caused by their actions.

READ FOR A FIRST TIME the 20th day of October, 2008

READ FOR A SECOND TIME the 20th day of October, 2008

READ FOR THIRD TIME the 20th day of October, 2008

ADOPTED this 3rd day of November, 2008

Original Signed by Mike Fennell
Mike Fennell, Mayor

Original Signed by Wayne Vollrath
Wayne Vollrath, CAO