

# CITY OF MERRITT

## BYLAW NO. 2040

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### NUISANCE ABATEMENT

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WHEREAS the *Community Charter* provides that Council may provide for the preventing and abating of nuisances and the maintenance of private property;

WHEREAS the Council of the City of Merritt deems it necessary and expedient to pass a bylaw for prescribing standards for the maintenance of property within the municipality; and,

NOW THEREFORE, the Council of the City of Merritt, in open meeting assembled, enacts as follows:

1. Citation

This Bylaw shall be cited as “**CITY OF MERRITT NUISANCE ABATEMENT BYLAW 2040, 2008.**”

2. Repeal

City of Merritt Property Standards Bylaw No. 1849, and amendments thereto, is hereby repealed.

City of Merritt Sidewalk Clearance Bylaw 1479, 1994 and amendments thereto, is hereby repealed.

3. Definitions

In this Bylaw:

“BOULEVARD” means that area of public property between the property line of private property and the abutting roadway.

"BYLAW SERVICES OFFICER" means an employee of the City, appointed by Council for enforcement of City bylaws.

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“CERTIFIED ARBORIST” means an arborist certified by the International Society of Arboriculture.

"CITY" means the City of Merritt.

“CLOSED STRUCTURE” means a legally constructed structure in which the contents are not visible to the public from a highway, a public place or from private property other than that on which the structure is located.

“CORPORATE SERVICES MANAGER” means the Municipal Officer appointed by Council and assigned responsibility for corporate administration for the City under Section 148 of the *Community Charter*

“DERELICT VEHICLE” means any motor vehicle, or part thereof, which:

- (a) is physically damaged, wrecked or disabled;
- (b) is not capable of operating under its own power; and,
- (c) does not have attached number plates for the current year pursuant to the regulations of the Motor Vehicle Act.

"EXCESSIVE GROWTH" means brush, grasses, weeds or other growth, which is permitted to grow higher than the growth on surrounding properties.

“FIRE CHIEF” means the person appointed from time to time as the Fire Chief of the Merritt Fire and Rescue Department, and any other Officer, Member or Inspector authorized by the Fire Chief to act on behalf of the Fire Chief.

"GRAFFITI" means an inscription, drawing, writing, pictorial representation, message or slogan, made on a wall, fence or other surface by means of paint, chalk, ink or other substance, or by chisel, hammer, stone or other device, excluding signs permitted pursuant to the City's Sign Regulation Bylaw.

“LANE” means the dedicated roadway to the side or rear of any property.

"NOXIOUS WEEDS" means those weeds listed in the regulations to the Weed Control Act.

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“OFFENDING MATERIAL” means any material or substance, including graffiti, which this bylaw requires owners, occupiers or their agents to remove or clear from their real properties.

"OWNER" shall, in addition to any other meaning, include any person in occupation or possession of or entitled to or having any interest in the land, premises, or property within this municipality to which any provision of this Bylaw may apply, and shall include the agent of any such person.

"PUBLIC PLACE" includes every roadway, lane, bridge, highway, park, or other places which the Public has access to as a right or by invitation, express or implied.

“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, carpeting, boxes, lumber not neatly piled, scrap iron, tin and other metal, scrap paving material, construction and demolition waste, derelict vehicles, 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, animal feces, and piles of earth mixed with any of the above.

“UNSIGHTLY” includes, but is not limited to:

- (a) the accumulation of filth, discarded materials or rubbish of any kind, including but not limited to ashes, dead animals, paper, cardboard, tin cans, leaves, wood, bedding, furniture (other than furniture designed specifically for outdoor use), crockery, glass, bags and appliances;
- (b) the accumulation of mechanical equipment including bulldozers, graders, backhoes or other similar heavy construction equipment on any site in the City where such site is not zoned for such use;
- (c) materials of any sort that are strewn about the real property rather than piled in a neat and appropriate manner;

- (d) landscaping that is dead, characterized by uncontrolled growth or lack of maintenance, or is damaged;
- (e) 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.

#### **4. SEVERABILITY**

If any section, subsection, sentence, clause or phrase of this Bylaw is for any reason held to be invalid by the decision of any Court of competent jurisdiction, the invalid portion shall be severed and the decision that it is invalid shall not affect the validity of the remainder.

### **REGULATIONS**

#### **5. BUILDING MATERIALS**

No owner or occupier of real property shall permit the accumulation of building material on such property, unless the owner or occupier of the property is in possession of a valid building permit or unless the accumulation is stored in a closed structure such that the accumulation is not visible from another parcel or highway.

#### **6. MOTOR VEHICLES**

No owner or occupier of real property, excluding property zoned C3, M1 or M2 and holding a valid business licence for automotive repair, automotive storage or auto wrecking, shall store:

- (a) more than two (2) unlicensed motor vehicles on such property; or,
- (b) any derelict motor vehicle on such property.

#### **7. UNSIGHTLY PROPERTY**

No owner or occupier of real property shall cause or permit the property to become or remain unsightly.

**8. GRAFFITI**

- (a) No owner or occupier of real property shall permit the property to become unsightly by allowing graffiti on said real property to remain on the said property.
- (b) No person shall place graffiti on private property, buildings, structures of any kind, fences, sidewalks or roads on or adjacent to any public property.

**9. GRASS, WEEDS AND OTHER GROWTHS**

No owner or occupier of real property shall:

- (a) allow grass, weeds, and/or other untended growths to exceed twenty (20) centimeters (eight (8) inches) in height;
- (b) allow noxious weeds to grow on the real property;
- (c) fail to remove dead or decaying vegetation where the presence of such, in the opinion of the Fire Chief or a certified arborist, poses a threat to the public, or public property.

**10. RUBBISH AND LITTER CONTROL**

- (a) No person shall cause or permit stagnant water, rubbish, noxious, offensive, unwholesome matter or substance to collect or accumulate upon their premise.
- (b) No person shall deposit or cause to be deposited any bottles, broken glass, paper, cardboard, or empty cartons, or other rubbish, trash or garbage in any open place within the City.
- (c) The owner or occupier of any industrial or commercial property shall provide sufficient receptacles to contain all refuse and litter as may be left by customers and other members of the public and the owner or occupier shall empty these receptacles on a regular basis or as required.

**11. BOULEVARDS, LANES, SIDEWALKS, PRIVATE PARKING LOTS AND ROADS**

- (a) Property owners or occupiers shall be responsible for all areas of a yard or parking lot on their property which are used for vehicular traffic, or to which the Public has access to as a right or by invitation, express or implied, to be kept in good repair, free from health and accident hazards, and without limiting the generality of the foregoing shall be:
- (i) kept free from dirt, surface dust and refuse;
  - (ii) maintained in good repair and free from large holes and deep ruts;
  - (iii) graded and drained to prevent ponding of water;
  - (iv) illuminated during the hours of use;
  - (v) cleared of snow and ice; and,
  - (vi) where there are standards supporting artificial lights, all exterior lighting and the connections thereto and other electrical fixtures, shall be kept in a safe condition, in good repair and in good working order.
- (b) Property owners or occupiers shall be responsible for all ramps, sidewalks or walkways and exterior garbage disposal or storage areas on land used for residential occupancy to be kept free from ice or snow and provide a safe continuous and unobstructed exit from such building to a public street.
- (c) Property owners shall be responsible for maintaining boulevards abutting their property in a clean and tidy manner to the same standards for grass, weeds, other growths, litter and rubbish as required by this bylaw for private property.
- (d) Property owners shall be responsible for maintaining the portion of lane abutting their property from the property line to the centerline in a clean and tidy manner to the same standards for grass, weeds, other growths, litter and rubbish as required by this bylaw for private property.

**12. SNOW REMOVAL**

- (a) Every owner or occupier of residential zoned property shall remove snow or ice from sidewalks or pathways abutting the said property within twenty-four (24) hours of accumulation except for weekends and holidays.
- (b) Every owner or occupier of real property shall immediately remove snow, ice or rubbish from the roof or other part of a structure adjacent to a highway or pathway or sidewalk where such snow or ice or rubbish presents a hazard to vehicular or pedestrian traffic.
- (c) Every owner or occupier of commercial or industrial zoned property shall remove snow or ice from sidewalk or pathways abutting the said property by ten (10) a.m. of any day and, as needed, following the accumulation of snow or ice.

**13. FENCES**

No owner or occupier of real property shall allow a fence located on such property to become or remain dilapidated, broken or leaning.

**ENFORCEMENT**

**14. RIGHT OF ENTRY**

- (a) The Bylaw Services Officer is authorized, at all reasonable times, to enter on any property in order to ascertain whether the regulations contained within this Bylaw are being observed.
- (b) No owner or occupier of real property shall hinder or obstruct the Bylaw Services Officer in the performance of her/his duties.

**15. ORDER TO COMPLY**

If after inspection, the Bylaw Services Officer is satisfied that, in any respect, the property does not conform to the standards prescribed in this Bylaw, the Officer may serve or cause to be served by personal service or by sending by registered mail to the owner of the property to his address appearing upon the last revised assessment roll, an Order to Comply containing particulars of the non-conformity and the period in which there must be compliance with the terms and conditions of the notice.

**16. APPEAL AGAINST AN ORDER TO COMPLY**

A person upon whom an Order to Comply has been served may, by giving notice in writing to the Corporate Services Manager within two weeks of the date of the Order to Comply notice, appeal to Council, who must hear and determine the appeal by confirming, amending or rescinding the Order to Comply.

**17. FAILURE TO COMPLY**

If, after the expiration of the compliance period specified in the Order to Comply, the work required to be performed by such Order remains either wholly or partially incomplete, the City may by its staff or agents, enter upon the property and perform or complete such work, at the expense of the owner of such property.

**18. OWNER RESPONSIBLE FOR COSTS**

The owner of the real property is responsible for all costs incurred by the City pursuant to Section 17 plus an Administrative fee of fifteen (15) percent. The total cost shall, if not paid by the 31st day of December in the year in which they were incurred, be added to and form a part of the taxes payable in respect of that property as taxes in arrears.

**19. DISPOSAL**

Where any material is removed from the property pursuant to section 17 hereof, Council may, by its employees or other persons, sell or dispose of the material and no liability shall attach to the City of Merritt, its employees or other persons, for any material sold or disposed of in accordance with the provisions of this Bylaw.

**20. PENALTY**

Every person who violates a provision of this Bylaw or who permits any act or thing to be done in contravention or in violation of any provision of this bylaw is guilty of an offence against this bylaw and liable to the penalties hereby imposed. Each day that a violation continues to exist shall constitute a separate offence. Every person who violates any of the provisions of this Bylaw will upon summary conviction be liable to a penalty of not less than fifty (\$50.00) dollars and not more than one thousand (\$1,000) dollars plus costs of the prosecution.



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**Read a First Time this**                      **13<sup>th</sup> day of May, 2008**

**Read a Second Time this**                      **13<sup>th</sup> day of May, 2008**

**Read a Third Time this**                      **13<sup>th</sup> day of May, 2008**

**Adopted this**                                      **27<sup>th</sup> day of May, 2008**

**Original signed by**  
**David Laird, Mayor**

**Original signed by**  
**Ruth Tolerton, Corporate**  
**Services Manager**