

THE CORPORATION OF THE DISTRICT OF OAK BAY

BYLAW NO. 3938

(**amended by Bylaw No. 4352 and 4434)

A Bylaw to control the accumulation of graffiti, rubbish, discarded materials,
noxious weeds, and other growth on land

The Municipal Council of The Corporation of the District of Oak Bay, in open meeting assembled, enacts as follows:

1 In this Bylaw,

“CORPORATION” means The Corporation of the District of Oak Bay;

“DERELICT BOAT” means a boat, located wholly or partly outside of a building, which

- (1) has been dismantled, or which has been stripped of parts to any degree, except temporarily and only to the extent reasonably required for the purpose of routine maintenance or servicing of an operational boat at the actual time when such maintenance or servicing is actively being carried out;
- (2) due to its
 - (a) wrecked or dilapidated condition; or
 - (b) state of disrepair,is manifestly unseaworthy or is otherwise incapable of normal marine operation;
or
- (3) is used primarily as a receptacle for storage.

“DERELICT VEHICLE” means a vehicle, located wholly or partly outside of a building, which:

- (1) has been dismantled, or which has been stripped of parts to any degree, except temporarily and only to the extent reasonably required for the purpose of routine maintenance or servicing of an operational vehicle at the actual time when such maintenance or servicing is actively being carried out;
- (2) due to its
 - (a) wrecked or dilapidated condition; or
 - (b) state of disrepair,

is manifestly:

- (c) unroadworthy; or
 - (d) incapable of operating under its own power or otherwise incapable of normal vehicular operation; or
- (3) is used primarily as a receptacle for storage.
*(**Bylaw 4434, adopted October 14, 2008)*

“DIRECTOR OF BUILDING AND PLANNING” means the Director of Building and Planning, or his delegate, for The Corporation of the District of Oak Bay;

“GRAFFITI” means drawing, printing or writing scratched, sprayed, painted or scribbled on a wall or other surface, but does not include a sign painted, installed or erected by the Corporation or for which a permit has been issued by the Corporation;

“MUNICIPAL CLERK” means the Municipal Clerk for The Corporation of the District of Oak Bay;
*(**Bylaw 4352, adopted April 10, 2007)*

“NOXIOUS WEED” means any weed designated by regulation under the *Weed Control Act*, R.S.B.C., 1996, c.487, as a noxious weed in respect of all of the Province or the Capital Regional District;

“TREASURER-COLLECTOR” means the Municipal Treasurer-Collector for The Corporation of the District of Oak Bay;

“VEHICLE” means a device in, on or by which a person or thing is or may be transported or drawn on a highway, but does not include a device designed to be propelled by human power or a motor-assisted bicycle.
*(**Bylaw 4434, adopted October 14, 2008)*

2 Every owner or occupier of land in the District of Oak Bay shall keep such land clear of

- (1) any accumulation of graffiti, filth, discarded materials or rubbish of any kind;
- (2) any derelict boat;
- (3) any derelict vehicle; and
- (4) all brush, noxious weeds or other growths which because of their condition are likely to spread to or become a nuisance to other land in the vicinity, or which are so unkempt as to be unsightly to nearby residents.
*(**Bylaw 4352, adopted April 10, 2007)*
*(**Bylaw 4434, adopted October 14, 2008)*

3 Without restricting the generality of Section 2(1), “filth, discarded materials or rubbish of any kind” includes

- (1) detached parts of vehicles;
- (2) detached parts of boats; and
- (3) building materials, construction equipment, or both, unless the owner of the land holds a current building permit for construction on the said land.

*(**Bylaw 4352, adopted April 10, 2007)*
*(**Bylaw 4434, adopted October 14, 2008)*

4 Where land is not kept clear in accordance with Section 2, the Director of Building and Planning may cause notice to be given to:

- (1) the owner of the land; and
- (2) any other person subject to the requirements of Section 2 in relation to the land,

advising that the Corporation will be entitled to take the required remedial action at the expense of the person subject to the requirement if the remedial action has not been taken within 14 days of the date on which the notice was mailed or served as the case may be.

*(**Bylaw 4352, adopted April 10, 2007)*

5 A notice under Section 4 shall

- (1) describe the nature of the noncompliance with the Bylaw;
- (2) describe, using apt words, measurements, sketches or photographs, or a combination thereof, the location, extent and nature of the required action;
- (3) indicate how the person served with the notice may contact the Director of Building and Planning if he or she desires further information with respect to the location, extent or nature of the required action;
- (4) state that the person served with the notice may apply to the Municipal Council for reconsideration of the requirement to take the action described in the notice;
- (5) indicate how the person served with the notice may obtain information regarding an application for reconsideration;
- (6) state that if within the required time the person served with the notice applies for reconsideration by the Municipal Council, he or she need not take the action described in the notice until the application has been dealt with and the requirement confirmed by that body; and
- (7) be given by personal service or by registered mail; and

(8) in addition to the recipients described in Section 4, be sent by regular mail to each holder of a registered charge in relation to the land whose name is included on the most recent assessment roll, at the address set out in that assessment roll and to any later address known to the Municipal Clerk.

*(**Bylaw 4352, adopted April 10, 2007)*

6 (Repealed)

*(**Bylaw 4352, adopted April 10, 2007)*

7 An application for reconsideration by the Municipal Council shall

(1) be in writing;

(2) include a return address; and

(3) be submitted to the Municipal Clerk before the expiration of the time set out in the notice for the completion of the required work.

8 Following receipt of an application for reconsideration under Section 7, the Municipal Clerk shall notify the applicant of the time, date and place the application will be placed before the Municipal Council.

9 Notification from the Municipal Clerk in accordance with Section 8 shall

(1) state that reconsideration by the Municipal Council at the time, date and place specified will include a reasonable opportunity to be heard or make written submission on the matter either in person, or through an agent, or both; and

(2) be mailed or otherwise delivered to the applicant at least five (5) days before the date set for reconsideration by the Municipal Council.

10 If the Municipal Council, upon reconsideration, has confirmed a requirement to take remedial action under this Bylaw, notice of such confirmation shall be given to:

(1) the owner of the land which is the subject of the requirement; and

(2) any other person subject to the requirements of Section 2 in relation to the land,

with such notice to be given by personal service or by registered mail, and in addition to be sent by regular mail to each holder of a registered charge in relation to the land whose name is included on the most recent assessment roll, at the address set out in that assessment roll and to any later address known to the Municipal Clerk.

*(**Bylaw 4352, adopted April 10, 2007)*

11 If the person subject to the requirement to take remedial action under this Bylaw does not take such action within 14 days of the date on which the notice under Section 4 or Section

10, whichever is applicable, was mailed or served as the case may be, then the Corporation, by its employees or others, may at the expense of that person effect the required remedial action including disposal as garbage or scrap of any material, object or thing removed from the land, and may, to the extent reasonably necessary for this purpose, enter upon the land which is the subject of the notice.

*(**Bylaw 4352, adopted April 10, 2007)*

*(**Bylaw 4434, adopted October 14, 2008)*

12 The Corporation shall keep an accurate account of the costs incurred pursuant to Section 11, and when the required action is completed shall mail a statement of such charges to the person given notice under this Bylaw, with a demand for payment of same.

13 If the person referred to in Sections 11 and 12 does not pay the costs of the action by the Corporation under Section 11 on or before December 31 in the year in which the costs were incurred, the costs shall be added to and form part of the taxes payable on the land as taxes in arrears.

*(**Bylaw 4352, adopted April 10, 2007)*

13.1 Where remedial action taken by the Corporation pursuant to Section 11 includes the removal of a derelict vehicle or derelict boat, the Corporation shall, prior to disposal as garbage or scrap, keep such vehicle or boat in storage for a period of not less than 60 days following removal. During the period of storage, without limiting liability for payment of other costs under this Bylaw, the vehicle or boat may be reclaimed by the owner upon payment to the Corporation of all removal, transportation, impoundment and storage fees incurred by it, and upon the owner presenting to the Corporation a signed declaration that the vehicle or boat shall not be kept or stored in a manner contrary to this Bylaw. If the vehicle or boat is not reclaimed during that period, it may be disposed of, and the disposal costs, net of any scrap value proceeds from the disposal, along with the Corporation's costs for removal, transportation, impoundment and storage, shall be added to and shall form part of the costs described in Sections 12 and 13.

*(**Bylaw 4434, adopted October 14, 2008)*

14 (1) The Director of Building and Planning may at all reasonable times enter upon any land in order to determine whether regulations and directions under this Bylaw have been obeyed.

(2) No person shall prevent or obstruct, or attempt to prevent or obstruct, the entry of the Director of Building and Planning upon any land as authorized by Section 14(1).

*(**Bylaw 4352, adopted April 10, 2007)*

15 A person who contravenes this Bylaw by doing an act that it forbids, or by omitting to do an act that it requires to be done, commits an offence and is liable, upon conviction, to a fine of not less than Fifty Dollars (\$50.00), plus costs.

16 The Director of Building and Planning shall be the weed control inspector for the purposes of the *Weed Control Act*, R.S.B.C., 1996, c.487.

17 If any part of this Bylaw is declared invalid by a court of competent jurisdiction, the remainder shall continue in full force and effect and be construed as if the Bylaw had been adopted without the invalid portion.

(**Bylaw 4434, adopted October 14, 2008)

18 The following bylaws are hereby repealed except insofar as they repeal any other bylaw:

(1) Bylaw No. 3427, "*Rubbish and Weed Control Bylaw, 1982*"

(2) Bylaw No. 3660, "*Rubbish and Weed Control Bylaw Amendment Bylaw, 1990*".

19 This Bylaw may be cited as the "***RUBBISH AND WEED CONTROL BYLAW, 1997***".

READ a first, second and third time by the Municipal Council on April 28, 1997

ADOPTED and FINALLY PASSED by the Municipal Council on May 12, 1997

Mayor

Municipal Clerk

Sealed with the Seal of The Corporation of
the District of Oak Bay