

CITY OF FORT ST. JOHN
Nuisance Abatement and Cost Recovery Bylaw No. 2523, 2020

A Bylaw of the City of Fort St. John to regulate, prohibit and impose requirements in relation to the abatement of Nuisances and to provide for cost recovery of Nuisance Abatement undertaken by the City.

WHEREAS it is desirable for the protection and enhancement of the well-being of the community to regulate and require the abatement of Nuisances in the City;

AND WHEREAS it is undesirable for the costs incurred in the abatement of Nuisance on private property to be paid by the public;

AND WHEREAS pursuant to the *Community Charter*, Council has the authority to regulate, prohibit and impose requirements in relation to Nuisances;

AND WHEREAS under the *Community Charter*, Council may impose and recover the costs for taking action in the event of a default by a Person who fails to take action as directed.

NOW THEREFORE, the Council of the City of Fort St. John, in open meeting assembled, enacts as follows:

PART 1 DEFINITIONS

In this bylaw:

“Authorized Person” means the following:

- (a) a Bylaw Enforcement Officer employed by the City;
- (b) a member of the RCMP;
- (c) the Fire Chief and every member of the Fort St. John Fire Department; and
- (d) Building Inspectors.

“Camp” means to sleep, camp, take up an abode, erect a tent, tarp, box or other shelter, or place other camping equipment;

“City” means the City of Fort St. John;

“Council” means the council of the City of Fort St. John;

“Fire Chief” means the person who is appointed to be the head of the Fort St. John Fire Department and every person designated by Council by name of office or otherwise to act in the place of the Fire Chief;

PART 1 DEFINITIONS (continued)

In this bylaw:

“Land” means any lot, block or other area in which land is held or into which it is subdivided and includes any improvement thereon, but excludes streets, lanes, municipal parks and other public spaces;

“Nuisance” means any activity, matter or thing which substantially and unreasonably interferes with the use and enjoyment of a Street, park or other public area or of neighbouring or nearby Land, and without limiting the generality of the forgoing, includes but is not limited to:

- (a) those activities, matters or things that negatively impact the health, comfort or convenience of others;
- (b) those activities, matters or things that cause or result in increased demand for RCMP or bylaw enforcement services;
- (c) those activities, matters or things that contravene laws, including the provisions of Part 3 of this bylaw;
- (d) loud music, a noisy party, or group of people making noise;
- (e) racing any type of motor vehicles;
- (f) revving of engines;
- (g) yelling, shouting, screaming, or fighting;
- (h) irritations, annoyances, unsanitary conditions on Land;
- (i) the carrying on of noxious or offensive business activity; and
- (j) other activities, matters or things that in law are a nuisance.

“Nuisance Abatement” means work or services undertaken by the City in, on or to Land or improvements, to abate, or cause to be abated, a Nuisance;

“Nuisance Abatement Costs” means costs incurred by the City to abate a Nuisance or to cause a Nuisance to be abated pursuant to Section 4.5 of this bylaw, plus the Nuisance Service Call Response fees and administration and overhead fees and any applicable taxes, as prescribed in Schedule “A” of this bylaw;

“Nuisance Abatement Order” means an order or direction issued by an Authorized Person pursuant to Section 4.2 of this bylaw;

“Nuisance Service Call Response” means an Authorized Person’s response to or abatement of a Nuisance;

PART 1 DEFINITIONS (continued)

In this bylaw:

“Occupier” means any Person who occupies Land, or who is qualified to maintain an action for trespass in respect of the Land, or who is in possession of the Land under a lease, licence, agreement for sale or other agreement with the owner of the Land;

“Owner” means any Person in relation to the Land who is the registered owner of an estate in fee simple, the tenant for life under a registered life estate, or the registered holder of the last registered agreement for sale, and in the case of provincial Crown or City owned lands, means the occupier of the Land;

“Person” includes any company, corporation, owner, partnership, firm, association, society or individual;

“RCMP” means the Royal Canadian Mounted Police, when providing municipal policing services within the City; and

“Street” means any highway, roadway, sidewalk, boulevard, trail, place or way which the public is ordinarily entitled or permitted to use for the passage of vehicles or pedestrians and includes a structure located in any of those areas.

PART 2 CAUSING A NUISANCE PROHIBITED

No Person shall:

- (a) cause or permit a Nuisance on Land he or she owns or occupies;
- (b) cause or permit a Nuisance on a Street, park or public area; or
- (c) permit Land he or she owns or occupies to be used so as to cause a Nuisance.

PART 3 RESTRICTIONS ON CAMPING

No Person shall Camp on any Street, City facility, park or Land unless previously authorized by the City.

PART 4 NUISANCE ABATEMENT

Requirement to Abate Nuisance

- 4.1 A Person who contravenes Part 2 of this bylaw shall abate the Nuisance or cause the Nuisance to be abated.

PART 4 NUISANCE ABATEMENT (continued)

Order for Nuisance Abatement

- 4.2 If a Person contravenes Section 2 or Section 4.1 of this Bylaw, an Authorized Person may issue to that Person or to the Owner or Occupier of Land where the Nuisance occurred or from which the Nuisance emanates a written Nuisance Abatement Order that:
- (a) sets out the particulars of the Nuisance;
 - (b) states that the Nuisance must cease or that the non-compliance must be remedied within 30 days, or within the time prescribed in the Nuisance Abatement Order; and
 - (c) states that if the Person fails to comply with the Nuisance Abatement Order, the City may abate the Nuisance at the Person's cost in accordance with this bylaw and the *Community Charter* and may impose applicable Nuisance Abatement Costs without prejudice to the City's right to seek other legal remedies or actions for abatement of the Nuisance.
- 4.3 Service of a Nuisance Abatement Order pursuant to Section 4.2 will be sufficient if the Nuisance Abatement Order:
- (a) in the case of service on an individual, is:
 - (i) served personally; or
 - (ii) served by mailed by registered mail to an address of the Person causing or permitting the Nuisance or the Owner or Occupier of the Land where the Nuisance is occurring; or
 - (iii) posted on the Land or premises at which the Nuisance has or is occurring.
 - (b) in the case of service on a corporation, is:
 - (i) served in accordance with section 9 of the *Business Corporations Act*, S.B.C. 2002, c. 57; or
 - (ii) posted on the Land or premises at which the Nuisance has or is occurring.
- 4.4 A Person who receives a Nuisance Abatement Order must comply with the requirements of such Nuisance Abatement Order within the time for compliance specified therein.

City May Abate Nuisance

- 4.5 If a Person who is subject to a Nuisance Abatement Order fails to comply with the Nuisance Abatement Order the City may, without providing further notice, fulfill the requirement set out in the Nuisance Abatement Order at the Person's expense.

PART 4 NUISANCE ABATEMENT (continued)

City May Abate Nuisance (continued)

- 4.6 The City may recover all costs incurred by the City under Section 4.5 of this bylaw in accordance with the *Community Charter* and Part 6 of this bylaw.

Entry Onto Property

- 4.7 Pursuant to the *Community Charter*, an Authorized Person may enter into or upon any lands, premise or premises within the City, at any reasonable time, including for the following purposes:
- (a) to inspect and determine whether requirements imposed under or pursuant to this bylaw are being met;
 - (b) to take action authorized by Section 4.5 of this bylaw; and
 - (c) to request anything to be produced to assist with an inspection, enforcement or action on default performed for the purpose of this bylaw.
- 4.8 An Authorized Person shall display or produce identification upon the request of an occupant or owner of Land that are the subject of an inspection or work performed by the City under this bylaw.
- 4.9 A Person must not obstruct an Authorized Person in the performance of their duties.

PART 5 COST RECOVERY

Cost Imposition

- 5.1 The City may impose Nuisance Abatement Costs in accordance with this bylaw by issuing an invoice to one or more of the following:
- (a) a Person causing or permitting the Nuisance;
 - (b) the Occupier of Land from which the Nuisance emanates, and;
 - (c) the Owner of Land from which the Nuisance emanates.

Cost Recovery

- 5.2 The City may recover the Nuisance Abatement Costs in accordance with the *Community Charter*:
- (a) as a debt due and recoverable in a court of competent jurisdiction;
 - (b) in the same manner as property taxes; and
 - (c) in any other manner authorized by law.

PART 5 COST RECOVERY (continued)

Costs Recoverable

- 5.3 If any Nuisance Abatement Costs imposed pursuant to this bylaw are unpaid as of December 31st in the year that they are imposed, they may be added to and form part of the taxes payable on the Land to which the Nuisance Abatement Costs apply as taxes in arrears.
- 5.4 The Nuisance Abatement Costs recoverable by the City under this bylaw shall be determined and calculated in accordance with Schedule "A" to this bylaw.
- 5.5 Nuisance Abatement Costs may be imposed by the City even if no Person has been charged with an offense relating to a Nuisance, a Person charged with an offense relating to a Nuisance was acquitted of all charges before a court or the charges are withdrawn, stayed or otherwise do not proceed.

PART 6 OFFENCES AND PENALTIES

- 6.1 Any Person who contravenes, violates, or fails to comply with any provision of this bylaw, or who suffers or permits any act or thing to be done in contravention or violation of this bylaw, or who fails to do anything required by this bylaw, commits an offence and shall be liable, upon conviction, to a fine of not more than \$10,000.00 (ten thousand dollars) and not less than \$1,000.00 (one thousand dollars) together with the cost of prosecution and any other penalty or order imposed pursuant to the *Community Charter* or the *Offence Act*.
- 6.2 If an offence continues for more than one day, each day that the offence continues constitutes a separate and distinct offence.
- 6.3 Nothing in this bylaw limits the City from utilizing any other legal remedies or actions that are otherwise available to the City at law for abatement of the Nuisance.
- 6.4 The City designates this bylaw as a bylaw that may be enforced by means of a ticket in the form prescribed for that purpose by the *Community Charter*.

PART 6 OFFENCES AND PENALTIES (continued)

- 6.5 The penalty for a contravention dealt with by ticket in accordance with the *Municipal Ticket Information Bylaw* is as follows:
- (a) The section number set forth in Column 1 of Schedule “B” of this bylaw designates the section number under which an offence has been committed opposite the respective words or expressions appearing in Column 2 of Schedule “C” of this bylaw for the purposes of issuing tickets under the bylaw notices under the *Community Charter*.
 - (b) The amounts appearing in Column 3 of Schedule “B” of this bylaw are the penalties set pursuant to the *Community Charter Bylaw Enforcement Regulation* of the corresponding offences designated in Column 2 for the purposes of issuing tickets under the *Community Charter*.

Repeat Service Calls

- 6.6 Where there are two or more Nuisance Service Call Responses to the same Land within a twelve-month period, the City may impose on the Owner or Occupier of the Land, for each additional Nuisance Service Call Response after the second Nuisance Service Call Response:
- (a) Nuisance Abatement Costs as identified in Schedule “A”; and
 - (b) a \$50.00 administration fee.

PART 7 SEVERABILITY

If any portion of this bylaw is found invalid by a court of competent jurisdiction, the invalid portion will be severed and the remainder of the bylaw will remain in effect.

PART 8 CITATION

This bylaw may be cited as the “Nuisance Abatement and Cost Recovery Bylaw No. 2523, 2020”.



READ FOR THE FIRST THREE TIMES THIS 26th DAY OF October, 2020

ADOPTED THIS 9th DAY OF November, 2020

LORI ACKERMAN
MAYOR

JANET PRESTLEY, DIRECTOR OF
LEGISLATIVE AND ADMINISTRATIVE
SERVICES

SCHEDULE "A" - FEES

The Nuisance Abatement Costs referred to in this bylaw are to be determined in part by multiplying the following hourly rate for the following individuals, vehicles or equipment involved in the abatement of a Nuisance by the time spent by those individuals, and the time those vehicles and equipment are used, in the abatement of the Nuisance.

(a) Staff and Personnel Cost Recovery

The following hourly rates apply for every hour or part thereof which any of the following City employees and RCMP members use related to a Nuisance where authorized under this bylaw. Depending upon the day of the week, the time of day, or the holiday status of when such services are required, the hourly rate may be increased by one and a half or two times.

City Hall Employees	Hourly Rate (with Overhead) Rounded to the Nearest Dollar
Bylaw Supervisor	\$56
Bylaw Enforcement Officer	\$51
Building Inspector I	\$58
Building Inspector II	\$63

Fire / Rescue	Hourly Rate (with Overhead) Rounded to the Nearest Dollar
Fire Chief	\$104
Deputy Fire Chief	\$92
Fire Training Officer	\$90
Fire Prevention Captain	\$90
Fire Inspector	\$82
Fire Prevention Lieutenant	\$69
Fire Fighter	\$61

RCMP	Hourly Rate (with Overhead) Rounded to the Nearest Dollar
Inspector	\$105
Staff Sergeant	\$92
Sergeant	\$80
Corporal	\$75
Constable	\$68

SCHEDULE "A" - FEES

(b) Vehicle and Equipment Cost Recovery

The following hourly rates apply for every hour or one-quarter (1/4) hour portion thereof where any of the following equipment and vehicles are used by City employees, RCMP or Fire Department personnel related to a Nuisance where authorized under this bylaw. Depending upon the day of the week, the time of day or the holiday status of when such services are required, the hourly rate may be increased by one and a half or two times.

Equipment and Vehicles	Hourly Rate
City Truck – Light	\$15
City Vehicle – Other	\$50
Ladder Truck	\$823
Structure Engine	\$595
Mobile Command or Hazmat Unit	\$425
Wildland Engine	\$463
Water Tender	\$369
Rescue Vehicle	\$340
RCMP Vehicles	\$20

(c) Contractor Cost Recovery

For any work carried out by a City contractor to carry out the work required under this bylaw on behalf of the City, the costs imposed will be the actual cost of the work plus 15% of the contract value.

SCHEDULE "B" - TICKET OFFENCES

Column 1 Section	Column 2 Offence	Column 3 Penalty (\$)
4.9	Obstruct Authorized Person	\$500.00
2	Cause or permit Nuisance	\$500.00
3	Prohibited Camping	\$500.00