THE CORPORATION OF THE DISTRICT OF KENT

BYLAW NO. 1318

"A bylaw to prohibit the owners or occupiers of real property from allowing property to become unsightly; to prohibit the collection or accumulation of unwholesome matter on premises; and to prohibit littering ."

The Council of The Corporation of the District of Kent in open meeting assembled ENACTS AS FOLLOWS:

INTERPRETATION

1. In this bylaw,

"accumulation", means the amassing, heaping up, or storage of matter, whether covered or uncovered by soil or other materials, or screened or unscreened by natural vegetation;

"bylaw enforcement officer" means a person designated by the Municipal Council as a bylaw enforcement officer for the purposes of section 264 of the Community Charter.

"effluent" means a substance discharged into water or onto land, or water containing such substance, which is capable of injuring the health or safety of a person, capable of interfering with the normal conduct of business, capable of causing physical discomfort to a person, or capable of damaging the environment and includes but is not limited to animal wastes, domestically used chemicals, agricultural chemicals, and pharmaceutical or veterinary chemicals;

"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 current Sign Regulations.

"litter" means the act of depositing, accumulation, dropping, or throwing down of rubbish of any kind in any public place, such as to cause or contribute to the defacement of that place, except where a public place is specified by law for the depositing of rubbish or waste, in accordance with the Waste Management Act, R.S.B.C. 1996, c. 482;

"order to comply", means an order, which is substantially in the form of Schedule A attached to and forming a part of this bylaw, signed by the **bylaw enforcement officer.**

"private land" means lands:

(a) the fee of which is in some person or organization other than the Crown; or

(b) the fee of which is in the name of the Crown but which is controlled, held, or occupied by some person or organization other than the Crown under a form of agreement with the Crown which has a term of one year or more;

"public place" means unalienated land, the general public domain, lands owned by British Columbia or Canada; excludes private land;

"rubbish" refers to discarded materials or debris of any kind including but not limited to appliances, bedding, cardboard, dead animals or animal parts, glass, bottles, transportation or storage pallets, paper, tin cans, wood and any other garbage;

"unsightly", except where expressly permitted in a Zoning Bylaw of the Corporation of the District of Kent, means any of the following situations, the occurrence of which is visible from a public road or from adjacent, neighbouring properties:

(a) the accumulation or storage of any building material, whether new or used, on any site or premises, other than a building material storage yard, where the owner or occupier of the premises is not in possession of a valid building permit under Building Bylaw no. 1116, 1997 and any amendments thereto;

(b) the outside storage or accumulation of any goods or merchandise, which is offered or intended to be offered for sale on any site, without a valid Business License.

(c) the storage, collection or accumulation of all or part of any automobile wreck or all or part of any motor vehicle which is not;

(i) validly registered and licensed in accordance with the Motor Vehicle Act , Chapter 318.

(ii) capable of motivation under its own power;

(d) the exterior storage of solid fuels, including coke or coal but excluding firewood, on any site;

(e) landscaping that is dead or characterized by uncontrolled growth; and

(f) grass that is of a height in excess of 20 centimetres (8 inches).

"Unwholesome", except where expressly permitted by bylaw, regulation, or statute, means:

(a) the collection of water, or the accumulation of rubbish or noxious, offensive-smelling matter, including although not limited to matter which may, by its nature, discharge or emit noxious or offensive odours or vapours across lot lines; or

(b) any matter which represents a fire hazard, a health hazard, or causes environmental pollution;

"water" includes runoff, seepage, or effluent from farm buildings, storage yards, or other works operating on private land.

APPLICATION

2. This bylaw applies to all persons and properties within the boundary of the Corporation of the District of Kent, as the case may be.

PROHIBITION

3. No owner or occupier of real property, or premises on the real property, shall allow the property or premises owned or occupied by him to become or remain **unsightly**.

4. No person shall cause or permit unwholesome matter to collect or accumulate around his premises.

5. No person shall litter.

REMOVAL

6. Every owner or occupier of real property, or premises on real property, or his agent is required to remove from the real property or premises any storage, collection or accumulation which is **unsightly**.

7. Every person is required to remove from his premises any unwholesome matter.

8. The Municipal Council may cause to be delivered to the owner, occupier or agent of either of them notice in writing requiring that any storage, collection or accumulation which is **unsightly** or unwholesome be removed from the real property or premises on the real property before the expiry of twenty-one (21) days after the delivery of the notice.

9. In the event of default of the removal of unsightly materials as set forth in Paragraph 8 and failure of any owner or occupier of the real property or premises on the real property, or his agent, to comply with the written notice to remove the accumulation, the Council hereby authorizes officers of the Corporation of the

District of Kent, or their lawful deputies, to enter the real property or premises on the real property affected to effect the removal at a time and in a manner of administrative convenience to the Corporation of the District of Kent at the expense of the *property owner* defaulting.

10. In the event that the person defaulting in the removal of **unsightly** materials pursuant to Paragraph 9 hereof fails to pay the charges by the Corporation of the District of Kent for effecting the removal, and if the charges are unpaid on the 31st day of December in any year, the charges shall be added to and form part of the taxes payable in respect of the real property as taxes in arrear.

11. The owner or occupier of real property, or their agents, must:

    (a) remove or cause to be removed from the real property, any **rubbish**, or noxious, offensive or unwholesome matter or substance, or any **unsightly** accumulation of **rubbish**, filth, discarded materials or **graffiti;**

    (b) clear or cause such property to be cleared of **unsightly** brush, trees, weeds or other growth; and

    (c) keeps grass trimmed to a height of not more than 20 centimetres.

12. Graffiti Prohibition

    (a) A person must not place **graffiti** on walls, fences, or elsewhere on or adjacent to a public place.

ORDER TO COMPLY

13. (a) Where an owner or occupier, or their agents fail to comply with any of the provisions of sections 3 to 12, a **bylaw enforcement officer** may serve an **order to comply** on such person, which requires the person to remove the offending material from the real property within 21 days of service of such **order to comply.**

    (b) Where an **order to comply** has been served in accordance with 13(a) and the **bylaw enforcement officer** is satisfied that special circumstances exist, the **bylaw enforcement officer** may set a time to comply, other than 21 days, that is reasonable in the circumstances.

    (c) The **bylaw enforcement officer** must serve the **order to comply**:

        (i) on the owner of the real property on which the offending material is located, by either:

(1) personal service, or

(2) registered mail with acknowledgement of receipt, to the address of the owner shown on the last real property assessment rolls;

provided that the owner is a registered company.

(ii) on the occupier of the real property on which the offending material is located, by either:

(1) personal service, or

(2) delivery to a mail box or other receptacle for messages, if any, on the real property, or

(3) posting on the real property; and

(iii) on any agent of the owner or occupier of the real property on which the offending material is located, by either:

(1) personal service, or

(2) registered mail with acknowledgement of receipt.

(d) When an **order to comply** is not personally served in accordance with clause (i)(1), (ii)(1), or (iii)(1) of section (c), whichever is applicable, such order is deemed to have been served:

(i) on the third day after mailing in accordance with clause (i)(2) or (iii)(2), whichever is applicable;

(ii) upon delivery in accordance with clause (ii)(2); or

(iii) upon posting in accordance with clause (ii)(3).

(e) Authority to Enter Property in connection with an **order to comply**

(i) A **bylaw enforcement officer** may enter, at all reasonable times, upon any real property to determine whether the provisions of this bylaw or the directions of an **order to comply** are being complied with.

(ii) If the owner or the occupier of such property, or their agents fail to remove or clear the offending material from the real property as directed in an **order to comply**, District staff, or a contractor

engaged by the District, may enter on the real property, at reasonable times and in a reasonable manner, to remove or clear the offending material at the expense of the defaulting owner or occupier of the real property, or their agents.

(iii) Where offending material has been removed or cleared in accordance with the subsection (e)(ii), the charges for such removal or clearance, if unpaid on or before December 31st in the year in which the charges are incurred, form part of the taxes payable on such property, as taxes in arrears.

(f) A person upon whom an **order to comply** has been served may, by giving notice in writing to the District Chief Administrative Officer at least 72 hours prior to the expiration of the time given in the **order to comply** to remove or clear the offending material, appeal to Council, who must hear and determine the appeal by confirming, amending or rescinding the **order to comply.**

PENALTY

14. Any person who:

(a) violates or who causes or allows any of the provisions of this bylaw to be violated; or

(b) fails to comply with any of the provisions of this or any other bylaw or applicable statute; or

(c) neglects or refrains from doing anything required under the provisions of this bylaw; or

(d) obstructs, or seeks or attempts to prevent or obstruct a person who is involved in the execution of duties under this bylaw,

is deemed to have committed an infraction of, or an offence against this bylaw and is liable on summary conviction to the penalties provided for in the Offence Act, and each day that such violation is caused, or allowed to continue, constitutes a separate offence.

REPEAL

15. The Untidy or Unsightly Property Bylaw No. 973, 1992 is hereby repealed.

SEVERABILITY

16. If any section, subsection, sentence, clause or phrase in 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 the bylaw.

CITATION

17. This bylaw may be cited for all purposes as "The District of Kent Unsightly Premises and Unwholesome Matter Bylaw No. 1318, 2005."

READ A FIRST TIME this 25th day of July 2005.

READ A SECOND TIME this 25th day of July 2005.

READ A THIRD TIME this 25th day of July 2005.

RECONSIDERED AND ADOPTED BY THE COUNCIL OF THE CORPORATION OF THE DISTRICT OF KENT this 8th day of August 2005.

Mayor

CAO

SCHEDULE A to BYLAW NO. 1318

Date:

ORDER TO COMPLY

Pursuant to the Unsightly Premises Regulation Bylaw
and the Community Charter

Civic Address:

Legal Description:

You are hereby ordered to bring the condition of this property into conformity with Unsightly Premises Bylaw No. 1318 and the Local Government Act by __<date>__, by doing the following:

(a)
(b)
(c)
(d)

Details on the Order to Comply process, including appeals, are detailed in the attached letter.