

**THE CORPORATION OF THE CITY OF  
PENTICTON**

**GOOD NEIGHBOUR BYLAW NO.  
2012-5030**

## TABLE OF CONTENTS

<b>1.</b>	<b>INTERPRETATION</b>	<b>4</b>
<b>2.</b>	<b>SEVERABILITY</b>	<b>4</b>
<b>3.</b>	<b>GENERAL REGULATIONS</b>	<b>5</b>
<b>4.</b>	<b>ADMINISTRATION</b>	<b>5</b>
<b>5.</b>	<b>STREET NUISANCES</b>	<b>5</b>
	Restrictions on Panhandling	5
	General Nuisances	5
<b>6.</b>	<b>NOISE REGULATION</b>	<b>5</b>
	Exemptions	5
	Construction Permits	6
	Mobile Public Address Systems	7
	General Prohibitions	8
	Specific Prohibitions	8
	Boat Noise	9
<b>7.</b>	<b>PROPERTY MAINTENANCE</b>	<b>9</b>
	Exemptions	9
	Regulations	9
	City Boulevards and Lanes	10
	Snow and Rubbish Removal	10
	Vacant Buildings	11
	Regulations	11
	Exemptions	11
	Permit and Inspections	12
	Inspections of Exterior of Vacant Building without Notice	12
	Vacant Building Registration Permit	12
	Commercial, Multi-Family, Industrial Permit	13
	Residential (Single & Two Family Properties)	13
	Display of Permits	13
	Monitoring Inspections	13
	No Additional Permits without Council Approval	13
	Partial Refund of Permit Fee	13
	Council may order Additional Permit to be Issued	14
	Criteria for Additional Permit	14
	Conditions of Additional Permit	14
	Additional Permit Fees	14
	Demolition of Vacant Buildings by City	14
	Recovery of City Costs through Sale of Property	15
	Compliance Orders	15
	Service of an Order	15
<b>8.</b>	<b>NUISANCE SMOKE</b>	<b>16</b>

<b>9.</b>	<b>ENFORCEMENT AND PENALTY</b>	17
	Enforcement	17
	Penalty	17
<b>10.</b>	<b>REPEAT NUISANCE SERVICE CALLS</b>	17
<b>11.</b>	<b>REPEAL</b>	18
	SCHEDULE "A".	20
	SCHEDULE "B"	22
	SCHEDULE "C"	24
	SCHEDULE "D"	25
	SCHEDULE "E"	29
	SCHEDULE "F"	30
	SCHEDULE "G"	32

THE CORPORATION OF THE CITY OF PENTICTON

BYLAW NO. 2012-5030

A BYLAW TO ENHANCE THE QUALITY OF LIFE  
FOR THE CITIZENS OF THE CITY OF PENTICTON  
(GOOD NEIGHBOUR BYLAW)

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WHEREAS, the Council for the City of Penticton desires to protect Quality of Life for its citizens, and endeavors to promote civic responsibility, and further, strives to encourage good relationships between neighbours.

AND WHEREAS the *Community Charter* authorizes officers, employees and agents of the municipality to enter at all reasonable times on any property to ascertain compliance with the municipality's bylaws;

AND WHEREAS Council deems it appropriate to require an owner of property to safeguard, secure and protect abandoned or unoccupied buildings from property damage, unauthorized entry or occupation for the protection of persons and property;

NOW THEREFORE the Council of the City of Penticton in open meeting assembled, hereby ENACTS AS FOLLOWS:

**1. INTERPRETATION:**

- 1.1. This Bylaw may be cited as "CITY OF PENTICTON GOOD NEIGHBOUR BYLAW NO. 2012-5030."
- 1.2. Words or phrases defined in the British Columbia *Interpretation Act*, *Motor Vehicle Act* or *Local Government Act* or any successor legislation, shall have the same meaning when used in this Bylaw unless otherwise defined in this Bylaw.
- 1.3. Schedules "A" – "G" contain definitions of terms used in this Bylaw.
- 1.4. In this Bylaw, unless the context otherwise requires, the singular shall include the plural and the masculine includes the feminine gender.
- 1.5. The headings contained in this Bylaw are for convenience only and are not to be construed as defining, or in any way limiting, the scope or the intent of the provisions of this Bylaw.

**2. SEVERABILITY:**

- 2.1. If any part of this Bylaw is for any reason held invalid by any court of competent jurisdiction, the invalid portion shall be severed and the severance shall not affect the validity of the remainder.

### **3. GENERAL REGULATIONS:**

- 3.1. No person shall obstruct or interfere with a bylaw enforcement officer in the exercise of his duties.
- 3.2. A bylaw enforcement officer shall have the right to enter upon the property of any owner or occupant at all reasonable times and in a reasonable manner for the purposes of inspecting property and declaring whether the property is unsightly or otherwise not in determining compliance with the provisions of this Bylaw.

### **4. ADMINISTRATION:**

- 4.1. The Building and Permitting Manager is hereby appointed to administer and carry out the provisions of this Bylaw.
- 4.2. Words defining responsibilities and authority shall be construed to be an internal administrative direction and not as creating a duty.

### **5. STREET NUISANCES:**

#### **Restrictions on Panhandling**

- 5.1 Schedule "B" contains definitions of terms used in Part 5 of this Bylaw.
- 5.2 No person shall panhandle in a manner to cause an obstruction.

#### **General Nuisances**

- 5.3 No person shall apply graffiti on walls, fences or elsewhere on or adjacent to any park or public place.
- 5.4 No person shall possess drug paraphernalia used for the purposes of storing, transporting or using illegal drugs in any park or public place.
- 5.5 No person shall relieve oneself on a highway, sidewalk, boulevard or in any public place except those places so designated for such purposes.
- 5.6 No person shall create a nuisance or disturbance upon any portion of a highway or other public place by participating in a fight or other similar physical confrontation between consenting or non-consenting persons.

### **6. NOISE REGULATION:**

- 6.1. Schedule "C" contains definitions of terms used in Part 6 of this Bylaw.

#### **Exemptions**

- 6.2. Notwithstanding anything contained herein, no person shall be guilty of an infraction of this Bylaw while:

- 6.2.1. Operating any vehicle or equipment of the Municipality, Fire Department, the RCMP or any other public body engaged in carrying out a public service or carrying out work in or on a highway, park or the Municipal Public Works Yard.
- 6.2.2. Performing works of an emergency nature for the preservation or protection of life, health or property, provided that, the onus shall be on the person performing the work to show cause that the work was of an emergency nature.
- 6.2.3. Lawfully carrying on a trade or industry at a commercial, industrial or light industrial zoned area, provided that the sound or noise therefrom does not exceed the sound or noise common to such trade or industry where carried out in accordance with generally accepted industry standards using equipment and facilities in good operating order.
- 6.2.4. Farm operations conducted in accordance with normal farm practices under the *Farm Practices Protection (Right to Farm) Act*.
- 6.2.5. Operating residential household equipment including, but not limited to, pool pump motors, air conditioning units, exhaust fans, hot tub pumps, provided that the sound or noise therefrom does not exceed the sound or noise common to such household equipment when in good operating order and being used in accordance with generally accepted industry standards.
- 6.2.6. Where a permit for a special event, which in the City Council's opinion is in the public interest, in which case the requirements of this bylaw may be waived.
- 6.2.7. The use of a lawnmower between the hours of 0700 hrs. and 2200 hrs. on any day.

### **Special Exemptions**

#### **Construction Exemptions:**

- 6.3 Where the City's Chief Building Official considers that it is impossible or impractical for a person to comply with Section 6.7 (e) and (f) the Chief Building Official may, grant an exemption to carry out work that is found to be necessary, at designated hours on designated days and on such other terms and conditions as the Chief Building Official considers reasonable in the circumstances.

#### **Community Notification**

- 6.3.1 Where an exemption to the noise bylaw is granted the applicant will notify businesses and residents within 45 meters of the parcel property lines. The applicant will also send a copy of the community notification to the City of Penticton Development Services Department and the R.C.M.P. The notification will be in writing and forwarded at least 24 hours and no more than 7 days prior to the exempted noise. The notification shall include:

**The applicant's information:**

- i) The company and or construction company name, address, and telephone number;
- ii) The project name and address of the construction site;
- iii) The 24 hour monitored contact name and contact number.

**The details of the exempted work:**

- i) Potential disruptions and other relevant activity including lights construction cranes, trucks, etc.;
- ii) The reasons why the noise exempted work is necessary.
- iii) Information about the exemption granted as well as any limitations or conditions imposed by the City regarding the exemption as well as a description of any steps taken or planned to minimize the noise nuisance.
- iv) Telephone numbers for the "City of Penticton and the RCMP."

**Mobile Public Address Systems:**

6.4 No person may operate a mobile public address system without first obtaining a current Business Licence and Commercial Vehicle Decal and complying with the following terms and conditions:

- (a) Upon application in writing, a Business Licence may be granted by the City's Business Licence Inspector, or designate, for a mobile public address system, provided such system is used and operated, as follows:
  - (i) The system may only be used between the hours of 0900 hours and 2100 hours;
  - (ii) The system must not be operated while the motor vehicle, trailer or other device containing the system is parked on a highway;
  - (iii) The system must not be operated more than once per day on any residential highway which has on either side of it an area zoned residential under the City's Zoning Bylaw; and
  - (iv) The system must not be operated so as to cause a nuisance or other disturbance to any person.
- (b) The Manager may cancel a licence for a mobile public address system if the licence holder fails to comply with the requirements and restrictions on use of the system established in this Bylaw, or otherwise causes a nuisance.

**General Prohibitions:**

- 6.5 No person shall make or cause, or permit to be made or caused, any noise in or on a highway or other public place in the City which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity of that place.
- 6.6 No person being the owner, occupier or tenant of Real Property shall allow or permit such Real Property to be used so that noise or sound which occurs thereon or emanates there from, disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons on the same property or in the neighbourhood or vicinity of that property.

**Specific Prohibitions:**

- 6.7 Without limiting the generality of Sections 6.5 and 6.6 herein:
- (a) No person shall play or operate any radio, stereophonic equipment or other instrument or any apparatus for the production or amplification of sound either in or on private premises or on any highway or other public place in such a manner as to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity of those premises or place.
  - (b) No person being the owner, occupier or tenant of Real Property shall allow or permit his real property to be used by a person or persons for playing or operating any radio or stereophonic equipment or other instrument or other apparatus for the production or amplification of sound in such a manner as to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity of said real property.
  - (c) Subject to Sub-Section 6.2 (c), no person shall own, keep or harbor any animal or bird, but excluding dogs, which by its cries or sounds unduly disturbs the peace, quiet, rest or tranquility of the surrounding neighbourhood or of persons in the vicinity:
  - (d) No person may operate, or cause, suffer or permit the operation of, any motorized lawn-grooming or garden equipment in the City between the hours of 2200 hours and 0700 hours.
  - (e) Subject to Section 6.3, no person in the City shall, on any day before 0700 hours or after 2200 hours, construct, erect, reconstruct, alter, repair or demolish any building, structure or thing, or excavate or fill in land in any manner which causes noise or sounds in or on a highway or elsewhere in the City which disturbs or tends to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity.



- (f) Subject to Section 6.3, no owner of Real Property shall, on any day before 0700 hours or after 2200 hours, cause, permit or allow a person to construct, erect, reconstruct, alter, repair or demolish any building, structure or thing, or excavate or fill in land in any manner which causes noise or sounds in or on any Real Property, a highway or elsewhere in the City which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity.

#### **Boat Noise:**

- 6.8 No person shall launch or operate a motor boat from any lands in the City if that motor boat is equipped with an exhaust system that permits the exhaust gases from the engine to be expelled directly into the air without first passing through the water unless the boat motor is equipped with a muffling device that ensures the exhaust gases from the engine are cooled and expelled without excessive noise that disturbs the quiet, peace, rest, enjoyment, and comfort of the neighbourhood or of persons in the vicinity.

### **7. PROPERTY MAINTENANCE:**

- 7.1 Schedule "D" contains definitions of terms used in Part 7 of this Bylaw.

#### **Exemptions**

- 7.1.1 Part 7 of this Bylaw does not apply to farm operations conducted in accordance with normal farm practices under the *Farm Practices Protection (Right to Farm) Act*.

- 7.1.2 Part 7 of this Bylaw does not apply to the orderly outdoor storage of goods and chattels when permitted by the City of Penticton Zoning Bylaw No. 2011-23.

#### **Regulations**

- 7.2 Except as permitted under Section 7.1.1 and 7.1.2 of this Bylaw, no owner or occupier of Real Property shall cause, suffer or permit:
  - (a) **Rubbish, Garbage and Discarded Material:** All Owners shall not permit the accumulation of Rubbish, Garbage or Discarded Material upon Real Property and shall remove the same therefrom.
  - (b) **Accumulation of Offensive or Unwholesome Matter:** All Owners shall not permit offensive or unwholesome matter upon Real Property in plain sight and shall remove the same therefrom.
  - (c) **Accumulation of Water:** No Owner shall permit water to collect or accumulate or otherwise hold water upon a Real Property that has become sufficiently stagnant as to permit the breeding of mosquitoes which may result in the spread of West Nile virus or other harmful disease-bearing insects.
  - (d) **Accumulation of the Vegetation:** No Owner shall permit the accumulation of dead landscaping, vegetation, noxious weeds or other growths to occur or to remain on the Real Property.

- (e) **Accumulation of Firewood:** Unless otherwise regulated by the Fire & Life Safety Bylaw, All Owners shall not permit the accumulation of firewood upon Real Property, and shall remove the firewood therefrom unless stored in open stacked rows and not exceeding 1.2 meters (4 feet) in width and 1.5 meters (5 feet) high.
- (f) **Accumulation of Motor Vehicle Parts or Other Mechanical Parts:** Except where the storage of motor vehicles parts is a permitted use pursuant to the City of Penticton Zoning Bylaw, Owners shall not permit the accumulation of motor vehicle parts or other mechanical parts upon Real Property and shall remove the same except where the storage of motor vehicles is a permitted use pursuant to the City of Penticton Zoning Bylaw.
- (g) **Motor Vehicles:** Except where the storage or parking of motor vehicles is a permitted use pursuant to the City of Penticton Zoning Bylaw, all Owners shall not permit the accumulation of motor vehicles that are not registered, licensed and insured to operate on a public highway and shall remove the same therefrom, save and except where the storage or parking of motor vehicles is a permitted use pursuant to the City of Penticton Bylaw or one (1) stored vehicle.
- (h) **Recreational Vehicles:** In residential zones no more than one (1) recreational vehicle may be parked per dwelling unit. Additional recreational vehicles may be parked or stored on the property such that the vehicle is entirely enclosed within a building.
- (i) **City Infrastructure:** No Owners shall permit trees or bushes or their root systems located on their property to become injurious to or interfere with City roadways, sidewalks, electrical utilities or other utilities or works and shall remove the offending trees and or bushes or the offending portions of trees and or bushes therefrom.
- (j) **Graffiti:** All Owners shall not permit graffiti to remain on Real Property for which they are the Owner thereof and shall remove the graffiti therefrom.
- (k) **Accumulation of Building Materials:** All Owners shall not permit the accumulation of building materials upon Real Property and shall remove the same therefrom except that building materials that are permitted upon Real Property where the Owner is in possession of a valid and existing building permit issued by the City or is otherwise in the process of construction or improvements upon the Real Property.

### **City Boulevards & Lanes**

- 7.3 No owner or occupier of Real Property adjacent to a boulevard or lane, or any other person, shall deposit or permit the deposit of any garden or vegetation waste materials containing weeds on or upon a boulevard or lane adjacent to the Real Property.

### **Snow and Rubbish Removal**

- 7.4 Every owner or occupier of any building or premises within the City shall remove from the roofs, gutters, projections, or cornices or buildings situated upon such buildings or

premises, all accumulations of ice, icicles, snow, rubbish or dirt that could slip, slide, fall or be blown upon or across any sidewalk or street.

- 7.5 Every owner or occupier of any building or premises, including any vacant lot, within the City, shall clear the sidewalk of snow and ice adjacent to the property before the hour of eleven o'clock (11:00 am) on the forenoon following the snow event.
- 7.6 Every owner or occupier of any building or premises, including any vacant lot, within the City, shall not deposit snow, ice or rubbish onto a City highway or portion thereof. Buildings with facades located closer than 3.0m from a property line shall be permitted to deposit snow in front of their property onto a City Highway; all other properties shall contain snow on their property.

## **Vacant Buildings**

### **Regulations**

- 7.7 Except as permitted under Section 7.6 of this Bylaw, every owner or occupier of a real property that contains a vacant building shall:
  - (a) Maintain \$2M in liability insurance and obtain a Vacant Building Registration (VBR) permit within thirty (30) days of an order by a Bylaw Enforcement Officer.
  - (b) Maintain the building in compliance with the standards set out in Schedule "F".
  - (c) Board the building in compliance with the standards set out in Schedule "G".

### **Exemptions**

- 7.8 No person shall allow a building or structure for human, industrial, or commercial use, or occupancy to stand vacant for more than sixty (60) days unless one of the following applies:
  - (a) The building is the subject of an active building permit for repair or rehabilitation, or a valid permit for demolition, and the owner is progressing diligently to complete the repair or rehabilitation.
  - (b) The building meets all applicable codes, does not contribute to blight, is ready for occupancy and is actively being offered for sale, lease, or rent. The building is to be supplied with minimum utilities to maintain the proper functioning of the facilities as well as to prevent damage to mechanical and plumbing facilities from freezing. Commercial buildings that are classified to have a fire alarm and or fire suppression systems must maintain electrical and heating systems to maintain these life safety components.
  - (c) The Building Official determines that the building does not contribute a nuisance or hazardous condition requiring building permits for remedial work or demolition.

## **Permits and Inspections**

- 7.9 Where a Bylaw Enforcement Officer reasonably believes the building or structures on property are considered a vacant building, the bylaw enforcement officer shall notify the owner of the vacant building in writing to:
- (a) Apply for Vacant Building Registration Permit; or
  - (b) Apply for a Building Permit to renovate a building or structure to a state of safe occupancy as per Section 7.8(b) or this Bylaw; or
  - (c) Demolish the structure(s) within ninety (90) days in compliance with City of Penticton Building Bylaw 94-45; and
  - (d) The Building Official may require in addition to the above, a Professional Engineer licenced or registered to practice in British Columbia to perform a field evaluation of an existing structure and any required remedial work to make the structure safe for occupation or further inspections.

## **Inspections of Exterior of Vacant Building without Notice**

- 7.10 A Bylaw Enforcement Officer may enter onto land without notice to and without the consent of the owner in order to monitor a building that is boarded or appears to be vacant in order to determine:
- (a) Whether the building is vacant;
  - (b) Whether a vacant building is to be boarded; and
  - (c) Whether the building complies with this bylaw.

## **Vacant Building Registration Permit**

- 7.11 In order to obtain a Vacant Building Registration (VBR) permit, an owner must:
- (a) Apply to the Chief Building Official for a special safety inspection within thirty (30) days of receiving an order and pay the fee hereby imposed for such special safety inspection as specified in Section "H" of the City's Fees & Charges Bylaw.
  - (b) Provide an address for service of notices and orders during the period that the permit is valid and thereafter, provide prompt notice of any change in the address given for service.
  - (c) Pay any application or permit fee as established within Section "H" of the Fees & Charges Bylaw.
  - (d) Provide the Building Official with a copy of the certificate of insurance required in paragraph 7.7(a) above.
  - (e) Ensure that all combustible materials within a vacant building are removed to reduce any potential fire load.

### **Commercial, Multi-family, Industrial Permit**

7.12 Upon payment of permit fees, the owner of a commercial, multi-family or industrial building(s) may obtain a permit for a period of 24 months from the date it is issued. The permit is automatically transferred to the next owner of the property.

### **Residential – (Single and Two Family Properties)**

7.13 Upon payment of the permit fees, the owner of a vacant residential building is entitled to obtain a single permit for the building(s), valid for a period of one (1) year from the date it is issued. The permit is automatically transferred to the next owner of the building.

### **Display of Permits**

7.14 Owners shall display the permit in a prominent location as determined by the Building Official.

### **Monitoring Inspections**

7.15 Every owner with a permit shall allow for entry of a Bylaw Enforcement Officer no less than on a monthly basis into a vacant building for the purposes of ensuring:

- (a) The building is maintained as per Schedule "F" of this bylaw; or
- (b) The building is secured against unauthorized entry as per Schedule "G" of this bylaw; and to ensure
  - (i) That all combustible materials within a vacant building are removed to reduce any potential fire load;
  - (ii) There is no illegal occupancy; and
  - (iii) There is no existence of rodents or any other potential health or safety risks to the community.

### **No Additional Permits without Council Approval**

7.16 Once a permit has been issued, no additional permit may be issued in respect to the building until and unless:

- (a) Council has approved an additional permit to be issued under Section 7.18.

### **Partial Refund of Permit Fee**

7.17 The current owner of a permit is entitled to a partial refund of the permit fee referred in Sub-Sections 7.11(c) if the building is brought into compliance with Section 7.8 of this Bylaw. Any outstanding fees, utility charges or penalties imposed on the owner pursuant to this or another Bylaw are to be deducted from any refund paid.

### **Council May Order Additional Permit to be Issued**

7.18 Upon application by an owner whose vacant building has been issued a permit under Section 7.11 or, and payment of any additional fees or penalties, Council may direct the Chief Building Official to issue an additional permit in respect of the building(s).

### **Criteria for Additional Permit**

7.19 In determining whether to approve an additional permit, Council must take into account:

- (a) That the building(s) do not create a **hazard** or **nuisance** on adjacent buildings and the surrounding neighbourhood;
- (b) The viability and credibility of the owner's plans to bring the building into compliance and maintain it thereafter in compliance with this Bylaw and other bylaws;
- (c) The likelihood that building will be re-occupied or demolished in the future; and
- (d) The owner's record of compliance or non-compliance with the Bylaw and other bylaws of the City and the subject property and elsewhere.

### **Conditions of Additional Permit**

7.20 In approving the issuance of an additional permit, Council may require that any conditions it considers reasonable are imposed on the additional permit. The permit valid for twelve (12) months and may be cancelled by the Chief Building Official who concludes that the conditions imposed on it have not been met or have been breached.

### **Additional Permit Fees**

7.21 An additional permit issued under Section 7.17 is conditional upon payment as described in the City's Fees & Charges Bylaw.

7.22 Any additional inspections performed by staff beyond monitoring inspections of the permit as described in the City's Fees & Charges Bylaw.

### **Demolition of Vacant Buildings by City**

7.23 If the owner is unable to comply with the requirements of this Bylaw or Council determines that the vacant building is a nuisance or hazard to the community, then the City may order the owner to remove the vacant building(s) on thirty (30) days' notice by the City. If the owner does not remove the vacant buildings(s) within thirty (30) days, the City or its contractors, employees or agents may enter onto the property and perform the required work to remove the vacant building(s) and the cost of such removal may be added to the property taxes for the property. The owner may seek reconsideration by Council of the Order requiring the removal of the vacant building(s) within fourteen (14) days of receiving the order by delivering written notice to the City.

## Recovery of City Costs through Sale of Property

7.24 Under Section 80 of the *Community Charter*, if remedial action requirements have not been satisfied by the date specified for compliance, the City may sell the matter or thing in relation to which the requirement was imposed or any part or material of it.

## Compliance Orders

7.25 If, in the opinion of the Bylaw Enforcement Officer, the owner of real property or other responsible person fails to comply with a requirement of this Bylaw, the Bylaw Enforcement Officer may issue an order requiring that the owner or other responsible person bring the Real Property into compliance with the provisions of this Bylaw within such time as the Bylaw Enforcement Officer considers appropriate in the circumstances.

## Service of an Order

7.26 Service of an Order referred to in Section 7.25 will be sufficient if a copy of the order is:

- (a) Served personally or mailed by prepaid registered mail to the owner of the Real Property as shown on the current year's real property assessment roll; and
- (b) Either posted on the Real Property or delivered or mailed by regular mail to the occupier of the Real Property.

7.27 Notice issued under Section 7.25 herein must state:

- (a) The civic address of the subject Real Property;
- (b) The legal description of the subject Real Property;
- (c) The particulars of the unsightly nature of the Real Property or other non-compliance with this Bylaw to be remedied;
- (d) That the unsightly nature of the property or other non-compliance with this Bylaw must be remedied within fourteen (14) days of the date of delivery of the notice, or, in the case of snow, ice or rubbish on a sidewalk or footpath, within 24 hours from the time the snow, ice or rubbish is deposited thereon;
- (e) That if the owner or occupant fails to comply with the notice, the City may, without further notice, proceed to carry out the work required, and the cost of such work will be added to the taxes of the real property, and the owner or occupant or both may be subjected to prosecution for an offence under this Bylaw.

7.28 Notice issued under Section 7.25 herein may give specific instructions to remedy the unsightly nature of the real property or other non-compliance with this Bylaw including, but not limited to, any one or more of the following directions:

- (a) Remove unsightly accumulations of materials or rubbish from the Real Property;
- (b) Remove snow, ice or rubbish from sidewalks and footpaths;

- (c) Clean, stack or cover any material;
  - (d) Clear the real property of brush, trees, noxious weeds or other growths;
  - (e) Cut grass or weeds present on the Real Property;
  - (f) Prune trees or shrubs;
  - (g) Remove rubbish, or cut grass, weeds or other growth from adjacent boulevards or laneways;
  - (h) Obtain a Vacant Building Registration Permit;
  - (i) Maintain a building as outlined in Schedule "F";
  - (j) Secure a building as outlined in Schedule "G"; and
  - (k) Otherwise remediate, maintain or repair the Real Property or buildings as specified in the notice, so as to bring it into compliance with this Bylaw.
- 7.29 If the owner of Real Property or other responsible person fails to comply with the Bylaw Enforcement Officer's compliance order within the time period specified in such notice, the City, by its workers or others, may at all reasonable times and in a reasonable manner, enter the Real Property and bring about such compliance at the cost of the defaulting owner or other responsible person. Such costs shall consist of all costs and expenses incurred by the City to achieve compliance with this Bylaw including, without limitation, administrative costs, costs to attend property by City employees or its contractors and the costs of removal, clean up and disposal.
- 7.30 If an owner of Real Property or other responsible person defaults in paying the cost referred to in Section 7.27 to the City within thirty (30) days after receipt of a demand for payment from the City, the City may either recover from the owner or other responsible person, in any court of competent jurisdiction, the cost as a debt due to the City, or direct that the amount of the cost be added to the real property tax roll as a charge imposed in respect of work or service provided to the real property of the owner, and be collected in the same manner as property taxes.
- 7.31 Service of a demand for payment referred to in Section 7.28 will be sufficient if a copy of the demand is served personally or mailed by regular mail to the owner of the real property as shown on the current year's real property assessment roll.

## **8. NUISANCE SMOKE:**

- 8.1 Schedule "E" contains definitions of terms used in Part 8.
- 8.2 This Bylaw applies to campfires, wood burning appliances and outdoor fireplaces as defined and regulated by the City of Penticton Fire and Life Safety Bylaw #2004-57.



- 8.3 No person shall light a campfire or outdoor fireplace, or permit a campfire or outdoor fireplace to burn when the Air Quality Index is less than 35 or the Ventilation Index is 54 or greater.
- 8.4 No person may set out, start or kindle a fire that emits opaque or dense smoke, or noxious odours.
- 8.5 An inspector may order the extinguishing of any fire producing smoke in violation of this Bylaw.
- 8.6 Every fire ordered extinguished under this bylaw must be extinguished immediately. Any fire that continues to burn after an order to extinguish has been issued may be extinguished by the Penticton Fire Department under the orders of the Fire Chief. All costs for the response may be recovered under the provisions of Section 17 of the *Community Charter*.

## **9. ENFORCEMENT AND PENALTY:**

### **Enforcement**

- 9.1 The provisions of this Bylaw may be enforced by any Bylaw Enforcement Officer.

### **Penalty**

- 9.2 Every Person who contravenes or violates any provision of this Bylaw, or who suffers or permits any act or thing to be done in contravention or in violation of any provision of this Bylaw, or who neglects to do or refrains from doing anything required to be done by any provision of this Bylaw, commits an offence and, upon conviction, shall be liable to a fine or penalty not less than \$100.00, and not exceeding \$10,000, and a jail term of not more than six (6) months.
- 9.3 Where the offence is a continuing one, each day the offence continues shall be a separate offence.

## **10. REPEAT NUISANCE SERVICE CALLS:**

- 10.1 Where a member of the RCMP, a Bylaw Enforcement Officer, or other City Official is required to respond to a Real Property for:
  - (a) More than one nuisance service call within a twenty-four (24) hour period; or
  - (b) More than three (3) nuisance service calls within a twelve (12) month period; the owner of the Real Property shall be liable to pay an Excessive Nuisance Abatement Fee in accordance with the amounts prescribed in the current City of Penticton Fees and Charges Bylaw for each additional nuisance service call responded to at the same Real Property within the twelve (12) month period following the date of the notice referred to in Section 10.3.

10.2 Despite Section 10.1, where legal title to a Real Property is transferred, nuisance service calls made before the date that the new owner obtains legal title to the Real Property shall not apply to a determination under Section 10.1 of whether excessive Nuisance Abatement Fees are payable. The new owner shall, in any event, be liable for all unpaid Excessive Nuisance fees imposed against the Real Property in respect of past nuisance service calls.

10.3 Before imposing an Excessive Nuisance Abatement Fee, written notice shall first be provided to the owner of the Real Property:

(a) Describing in reasonable detail the nature of the nuisance conduct, activity or condition that occurred, or was maintained or permitted in, on or near the Real Property; and

(b) Advising the owner that excessive nuisance abatement fees will be imposed for each additional nuisance service call to the same Real Property and that the imposition of such fees is in addition to the City's right to seek other legal remedies or actions for abatement of the nuisance.

10.4 Service of the Notice Referred to in Section 10.3 will be sufficient if the notice:

(a) In the case of service on an individual, is served personally or mailed by prepaid registered mail to the address of the owner shown on the current year's real property assessment roll for the Real Property for which the notice is issued;

(b) In the case of service on a corporation, is served personally on a director, officer or manager of the corporation or by leaving it at or mailing it by prepaid registered mail to the registered office of the corporation.

10.5 Excessive Nuisance Abatement Fees shall be paid by the owner on receipt of an invoice from the City. If the amount of each invoice is not paid in full before the 31st day of December in the year received, on written notice to the owner, the amount shall be added to and form part of the taxes on the Real Property, as taxes in arrears.

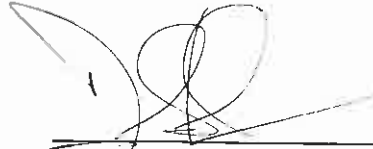
10.5 An owner may, within thirty (30) days of receipt of an invoice demanding payment of Excessive Nuisance Abatement Fees, require that Council reconsider the requirement to pay, or the amount of, the Excessive Nuisance Abatement Fees, at which time the owner of the Real Property shall have an opportunity to be heard by Council.

## **11. REPEAL:**

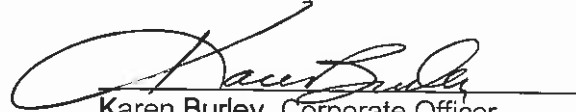
11.1 The following Bylaws of the City of Penticton and their amendments are hereby repealed:

11.1.1 Good Neighbour Bylaw 2012-5018

READ A FIRST time this 20<sup>th</sup> day of August, 2012.  
READ A SECOND time this 20<sup>th</sup> day of August, 2012.  
READ A THIRD time this 20<sup>th</sup> day of August, 2012.  
ADOPTED this 4<sup>th</sup> day of September, 2012.



Dan Ashton, Mayor



Karen Burley, Corporate Officer

## SCHEDULE "A"

In this Bylaw:

"BYLAW ENFORCEMENT OFFICER" means the persons duly appointed by Council as such, and shall include any peace officer.

"CHIEF BUILDING OFFICIAL" means the person appointed from time to time as the Building and Permitting Manager by the Council of the City.

"CITY" means the City of Penticton or the area within the municipal boundaries as the context may require.

"COUNCIL" means the Council of the City of Penticton.

"EXCESSIVE NUISANCE ABATEMENT FEES" include, but are not limited to the following costs and expenses incurred while responding to a nuisance service call for the purpose of abating nuisance conduct, activity or condition:

1. The cost of Police and City staff salaries, including all fringe benefits;
2. The cost of using Police, Fire and City equipment and vehicles;
3. The administration costs incurred by the City in responding to a nuisance service call and abating a nuisance; and
4. The cost of repairs to damaged City equipment, vehicles or property.

"HIGHWAY or OTHER PUBLIC PLACE" includes every street, road, land, boulevard, sidewalk, lane, bridge, viaduct and any other way open to public use and any park, building, conveyance, private place or passageway to which the public has, or is permitted to have access or is invited.

"LICENCE INSPECTOR" means the person from time to time duly appointed as a Licence Inspector for the City of Penticton, any person acting in that capacity, and includes the Manager, Building Official, Bylaw Officer, and Building Licence Clerk.

"Manager" means the Building and Permitting Manager and his or her designate.

"MOTOR BOAT" means a boat or any vehicle used on water that is powered by an engine.

"NOXIOUS WEED" means any weed designated by regulation to be a noxious weed pursuant to the *British Columbia Weed Control Act*.

"NUISANCE" means anything that annoys or gives trouble, or that which is offensive, irritating or a pest to anyone residing within the City.

"NUISANCE SERVICE CALL" means a City or police response to and abatement of any nuisance or other activity, conduct or condition occurring on or near real property which substantially and unreasonably interferes with another person's use and enjoyment of a public place or of real property occupied by that person, or which causes injury to the health, comfort or convenience of an occupier of real property and which is caused by or arises from a person's failure to comply with the requirements of this Bylaw.

"OWNER" means the person(s) or organization listed as the title holder on a property's legal certificate of title.

"PEACE OFFICER" has the same meaning as in the *British Columbia Interpretation Act* and includes a Bylaw Enforcement Officer.

"PERSON" includes a natural person, a company, corporation, partnership, firm, association, society, or party and the personal or other legal representatives of a person to whom the context can apply according to law.

"REAL PROPERTY" means land, with or without improvements so affixed to the land as to make them in fact and in law a part of the real property, and includes, as the context requires, individual premises located on the real property.

"TRAFFIC CONTROL SIGNAL" means a traffic control signal as defined in the *British Columbia Motor Vehicle Act*.

## SCHEDULE "B"

In Part 5 of this Bylaw:

"AUTOMATED TELLER MACHINE" means a device linked to a financial institution's account records which are able to carry out transactions, including, but not limited to, account transfers, deposits, withdrawals, balance inquiries, and mortgage and loan payments.

"BUS STOP" means a section of street which is reserved for the loading and unloading of buses and where parking and stopping of all other vehicles is prohibited.

"PANHANDLE" means to beg for, or without consideration, ask for money, donations, goods or other things of value whether by spoken, written or printed word or bodily gesture for one's self or for any other person but does not include soliciting where approved by the City.

"OBSTRUCTION" means to:

- (a) Sit or lie on a highway in a manner which obstructs or impedes the convenient passage of any pedestrian traffic on a highway, in the course of panhandling;
- (b) touch a person while panhandling;
- (c) continue to panhandle from or otherwise harass a pedestrian after that Person has made a negative initial response to panhandling or has otherwise indicated a refusal;
- (d) physically approach and panhandle from a pedestrian as a member of a group of two or more persons;
- (e) Panhandle on a highway within ten (10) meters of:
  - i. An entrance to a bank or trust company;
  - ii. An automated teller machine;
  - iii. A bus stop;
  - iv. A bus shelter;
  - v. The entrance to any liquor store or licensed retail liquor store;
  - vi. The entrance to a movie theatre or sidewalk café;
  - vii. A pay telephone;
  - viii. An entrance to or within an enclosed or covered pedestrian walkway;
  - ix. A public washroom;
  - x. An entrance to a church or place of worship;
- (f) panhandle from an occupant of a vehicle in a manner which obstructs or impedes the convenient passage of any vehicular traffic or on a highway;
- (g) panhandle from an occupant of a motor vehicle which is;
  - i. Parked;
  - ii. Stopped at a traffic control signal; or
  - iii. Standing temporarily for the purpose of loading or unloading.
- (h) panhandle after sunset on any given day;
- (i) panhandle in such a way as to impede the ability of a person entering or exiting a place of business;
- (j) panhandle from a person standing on a highway or other public place for the purpose of entering any building or purchasing any goods or services;
- (k) panhandle from a person seated at a sidewalk café;
- (l) panhandle on a private property without the property owner's consent;

- (m) obstruct whether individually or as a group, the passage of a solicited person;
- (n) panhandle using obscene or abusive language.

"STREET" means any highway, roadway, sidewalk, boulevard, place or right of way which the public is ordinarily entitled or may be permitted to use for the passage of vehicles or pedestrians and includes a structure located in any of those areas;

"TRAFFIC CONTROL SIGNAL" means a traffic control signal as defined in the *Motor Vehicle Act*, R.S.B.C., 1996 c. 318, as amended, from time to time.

"TRUST COMPANY" means an office or branch of a trust company to which the *Trust and Loans Companies Act (Canada)* applies and in which deposit accounts are held.

## **SCHEDULE "C"**

In Part 6 of this Bylaw:

"MOBILE PUBLIC ADDRESS SYSTEM" means a public address system that can be used or is used while mounted on a motor vehicle, trailer or such other device transported or moved by human power.

"PUBLIC ADDRESS SYSTEM" means a sound amplification system, either by megaphone or electronically, used outdoors to disseminate the spoken word and/or music to the public in general, and includes outdoor sound amplification systems used for purposes of a performance, concert, exhibition or entertainment, but does not include systems used for internal communications in schools and businesses.



## SCHEDULE "D"

In Part 7 of this Bylaw:

"ACCUMULATION" means a buildup, growth or collection, either scattered amassed or piled, existing at the time of inspection.

"BOARD" shall mean a building whose doors and windows have been covered with plywood or other material for the purpose of preventing entry into the building by persons or animals. The boarding requirements are outlined in Schedule "G".

"BOULEVARD" means that portion of highway between the curb lines or the lateral boundary lines of a road way and the adjoining property or between the curbs on median strips or islands, but does not include curbs, sidewalks, ditches or driveways.

"BUILDING OFFICIAL" includes The Chief Building Official and Building Officials, and Plan Checkers designated by the Corporation of the City of Penticton.

"CONTAINER" includes a dumpster, garbage can, garbage bin or other receptacle designed, intended or used to hold rubbish, discarded materials and debris.

"CERTIFIED PROFESSIONAL" means a person who is a member, in good standing, of the Association of Professional Engineers and Geoscientists of the Province of British Columbia.

"CONTROLLED SUBSTANCE PROPERTY" as defined in the Controlled Substance Bylaw 2004-71.

"DERELICT" (dilapidated) shall mean a building or structure deserted by an owner or keeper, abandoned.

"DERELICT VEHICLE" means any vehicle or part thereof, propelled otherwise than by muscle power which:

- Is physically wrecked or disabled; and
- Is not capable of operating under its' own power.

"DISCARDED MATERIALS" includes the accumulation of wood, appliances, furniture, mattresses, motor vehicle parts or tires, construction materials, toys, recreational or sporting equipment carpeting or any other materials or equipment whereby its placement upon the Real Property is not consistent with its intended normal use or due to its condition and or state of disrepair is not usable for its normal intended use.

"FILTH" means foul or putrid matter.

"FIRE CHIEF" means the person appointed from time to time as the Chief of the Fire Department by the Council of the City.

"FIREWOOD" includes pieces of logs, split logs, tree limbs or branches, pruning's, lumber, scrap wood, manufactured logs or any other wood based materials which are "Permitted Wood Burning Appliance Fuels" as defined by the City of Penticton Fire and Life Safety Bylaw No. 2004-57 as amended from time to time and which have a maximum dimension or length of 1.2 meters (4 feet) and that are intended to be used for burning in a solid fuel burning appliance or fireplace.

"GRASS" shall include plants that are commonly known or referred to as grass.

"HAZARD OR HAZARDOUS" shall mean a physical condition created by neglect, a controlled substance property, fire or flood damage and is considered unsafe for habitation or storage without remedial action. Hazardous conditions may arise in violations to City and Provincial Health and Safety regulations or Bylaws. Hazardous conditions could arise from:

- Substantial mold growth;
- Water damage which could contribute to mold or structural failure;
- Subsiding of foundations which could lead to water damage and structural failure;
- Incomplete construction (expired permit) which could deteriorate and lead to structural failure or hazards to adjacent properties and or general public;
- Incomplete demolition or standing water in excess of 24" in depth; and
- Electrical, plumbing, mechanical or a combination of which could adversely affect structural integrity.

"LANE" means a public thoroughfare or way which affords only a secondary means of access to a lot at the side or rear.

"MONITORING" shall mean a periodic site review to ascertain whether the:

- Buildings that are the subject to complaints;
- Buildings that are dilapidated;
- Buildings that are eyesores (nuisance);
- Buildings that are dangerous (hazard);
- Boarded buildings; and
- Buildings that have been vacant for extended periods of time.

"NOXIOUS WEEDS" means a weed designated by the *Weed Control Act, Chapter/Regulation 487*, and the *Weed Control Regulation* to be a noxious weed, and includes the seeds of a noxious weed.

"NUISANCE" shall mean any building, structure or property that does not meet the standards set forth under Schedule F of this Bylaw:

- Exterior not up to Code;
- Windows and/or doors are boarded, not ready for occupancy;
- Structure is a neighborhood blight and may include debris or broken windows;
- Structure attracts transients, pests or crime;
- Structure is neglected by owner;
- Paint peeling throughout structure; and
- Standing water.

"OCCUPANT" includes:

- A person residing on or in the property;
- The person entitled to the possession of property if there is no person residing on or in the property; and
- A leaseholder, and shall include the agent of any such person.

"OFFENSIVE MATTER" means physical objects which are objectionable to the public.

"RUBBISH", in addition to its common dictionary meaning, shall include 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, derelict vehicles 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, and piles of earth mixed with any of the above.

"SPECIAL SAFETY INSPECTION" means a specific on-site review to ascertain the status of health, structural and life safety conditions of a building and may include the Building Official, the Fire Chief of the City, a member of the Royal Canadian Mounted Police of the City, a Provincial Health Inspector, BC Safety Authority Inspector or the deputy or designate of such a person.

"STORED VEHICLE" means a motor vehicle that is stored or parked upon a Real Property and is not licenced and insured for operation on public highways.

"STREET" means any highway, roadway, sidewalk, boulevard, place or right of way which the public is ordinarily entitled or may be permitted to use for the passage of vehicles or pedestrians and includes a structure located in any of those areas.

"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 nearby property, or from a building or structure situate on a public highway or nearby property;
- (iii) Landscaping or vegetation that is dead or characterized by uncontrolled growth or lack of maintenance, or is damaged; and
- (iv) Any other similar conditions of disrepair, dilapidation, or deterioration.

"UNWHOLESOME MATTER" means physical objects which are detrimental to the physical or mental well-being of persons.

"VACANT BUILDING" shall mean a building or structure, which is without lawful resident or occupant or which is not being put to a lawful commercial, residential, or industrial use for a continuous period of over forty-five (45) days within a consecutive sixty (60) day period or which, may be unoccupied and unsecured; occupied and secured by boarding or other similar means; unoccupied and deemed a nuisance or hazardous building or structure or no longer hold a valid building permit.

"WEED" means any unplanned or uncultivated plant growth or bush and shall include any landscaping that is damaged, excessively overgrown or characterized by a lack of maintenance, but does not include any tree.

## **SCHEDULE "E"**

In Part 8 of this Bylaw:

"AIR QUALITY INDEX" means the function of transforming air quality measurements into a single number or descriptive term as shown for the Penticton area on the Province of British Columbia's, Ministry of Environment – Water, Air and Climate Change Branch website.

"EXTINGUISHED" shall mean no visible flame, sparks, glowing embers or smoke.

"INSPECTOR" means a Bylaw Enforcement Officer, Peace Officer, Fire Chief or his designate.

"PERSON" shall mean natural persons of either sex, associations, corporations, or co-partnerships, whether acting by themselves or by a servant, agent, or employee, and the heirs, executors, administrators, or assigns or other legal representatives of such persons to whom the context shall apply according to law.

"SMOKE" means the gases, particulate matter and all other products of combustion emitted into the atmosphere when a substance or material is burned, including without limitation smoke, dust, gas, sparks, ash, soot, cinders and fumes.

"VENTALIATION INDEX" means the function of transforming a measure of the atmosphere's ability to disperse pollution into a single number or descriptive term as indicated on the Environment Canada website or by calling the BC Ministry of Environment toll free number.

## **SCHEDULE "F"**

The owner of a vacant building must comply with the following maintenance standards of this Schedule.

### **Exterior walls**

1(1) The exterior of every building must be constructed, repaired and maintained in a manner that;

- (a) Ensures the integrity of the building envelope to protect the building from the weather and from infestations of insects, rodents and other pests; and
- (b) Prevents a substantial depreciation in property values in the immediate neighbourhood.

1(2) Without restricting the general obligation set out in subsection (1):

- (a) All exterior surfaces must consist of materials that provide adequate protection from the weather;
- (b) All exterior walls and their components, including coping and flashing, must be maintained in good repair;
- (c) All exterior walls must be free of holes, breaks, loose or rotting boards or timbers and any other condition which might permit the entry of insects, rodents or other pests to the interior of the wall or the interior of the building;
- (d) Exterior wood surfaces must be adequately protected against deterioration by the periodic application of paint, stain or other protective coating;
- (e) No more than 25% percent of any painted area of any exterior wall may be blistered, cracked, flaked, scaled, or chalked away;
- (f) The mortar of any masonry or stone exterior wall may not be loose or dislodged.
- (g) The exterior of every building must be free of graffiti; and
- (h) Loose material must be removed from exterior walls, doors and window openings.

### **Roofs**

2(1) Roofs must be constructed and maintained so as to prevent:

- (a) Rainwater or melting snow falling on the roof from entering the building;
- (b) Rainwater or melting snow falling on the roof from negatively affecting neighbouring buildings or properties; and
- (c) Objects and materials from falling from the roof.

2(2) Without restricting the general obligation set out in subsection (1):

- (a) Roofs, including fascia boards, soffits, cornices, flashing, eaves troughing and downspouts must be maintained in a watertight condition.
- (b) Roof drainage must be controlled in order to eliminate or minimize runoff to neighbouring properties that:
  - (i) Accumulates or causes ground erosion;
  - (ii) Causes dampness in the walls, ceilings or floors of any portion of any neighbouring building; and
  - (iii) Accumulates on sidewalks or stairs in a manner so as to create a hazardous condition.
- (c) Loose or unsecured objects and materials, including accumulations of snow or ice or both that are likely to fall on passersby or are likely to result in the collapse of the roof, must be removed from the roof of a building or an accessory building.

### **Fire protection systems**

3(1) Unless a fire protection system has been decommissioned by permission of the Fire Chief, it must be maintained in an operational condition.

3(2) Unless a fire alarm system has been decommissioned by permission of the Fire Chief, it must be connected to an approved fire signal receiving centre in compliance with Can/ULC-S561-03, adopted and published by the Underwriters' Laboratories of Canada, so as to notify the Fire Department of a fire alarm activation in the building.

## **SCHEDULE "G"**

The owner of a vacant building must comply with either **Part I** or **Part II** of this Schedule.

### **PART I**

In order to comply with Part I of this Schedule, the owner of a vacant building must ensure that:

- (a) All exterior doors to the dwelling are operational, fit tightly within their frames when closed and are locked so as to prevent entry;
- (b) All windows are either permanently sealed or locked so as to prevent entry;
- (c) All windows, doors, basement and attic hatchways and their frames are so constructed and maintained to completely exclude rain and substantially exclude wind from entering the building; and
- (d) All windows are in good repair, and properly glazed.

### **PART II**

In order to comply with Part II of this Schedule, the owner of a vacant building must ensure that the following requirements are met:

- (a) All doors, windows and other openings, other than the principal entrance, at the basement and main (first) floor levels must be covered in compliance with this Part with a solid piece of plywood, at least 11 millimeters thick and secured with coated spikes at least 75 millimeters in length, spaced not more than 150 millimeters on centre.
- (b) The principal entrance must be covered in compliance with this Part with a solid piece of plywood, at least 11 millimeters thick, adequately secured with screws at least 50 millimeters in length, spaced not more than 150 millimeters on centre.
- (c) Windows, doors and other openings at the second floor level must be covered in compliance with this Part with a solid piece of plywood, at least 8 millimeters thick and secured with coated spikes at least 75 millimeters in length, spaced not more than 150 millimeters on centre.
- (d) Windows, doors and other openings at the third floor level or higher must be either:
  - i. Secured in accordance with Part I of this Schedule; or
  - ii. Covered in compliance with this Part with a solid piece of plywood, at least 8 millimeters thick and secured with coated spikes at least 75 millimeters in length, spaced not more than 150 millimeters on centre.
- (e) Windows, doors and other openings at the third floor level or higher may be secured from inside the building; plywood applied to all other openings must be secured from the exterior.
- (f) Plywood applied to openings must be installed and maintained in a way that is weather-tight and must be protected from the elements with at least two coats of white paint. A hole must be cut in the plywood just large enough for the door hardware to protrude.



- (g) All floors above the first floor must be rendered inaccessible to entry by raising fire escapes and ladders to a height of at least four meters or guarding them in some other manner acceptable to an Enforcement Officer.
- (h) All areaways must be adequately secured either by:
  - i. Filling them with concrete or unshrinkable fill; or
  - ii. Covering opening to them with a metal plate of at least 8 millimeters thick and securing it so as to prevent it from shifting.
- (i) Electricity, natural gas and water must not be cut off if they are necessary to maintain fire protection systems or fire alarms.
- (j) Where they are not necessary to maintain fire protection systems or fire alarms, electricity, natural gas and water must not be cut off except in a manner satisfactory to an Enforcement Officer.