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Maintenance of Property**

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CORPORATION OF THE CITY OF DUNCAN

BYLAW NO. 3058

A Bylaw for prescribing standards for the maintenance of property.

WHEREAS Council wishes to establish a Bylaw to regulate the maintenance of rental property to ensure Health and Safety within and around the property;

AND WHEREAS, the Corporation of the City of Duncan deems it to be in the public interest to establish such measures;

NOW THEREFORE the Council of the Corporation of the City of Duncan enacts as follows:

TITLE AND INTERPRETATION

Citation

1. This Bylaw may be cited for all purposes as the "Maintenance of Property Bylaw No. 3058".

2. **Definitions**

“Accessory Building” means a building, the use or intended use of which is ancillary to that of the principal building situated on the same site.

"Bathing Fixture" means either a bathtub or shower with hot and cold water connected thereto.

“Bathing Unit” means a room containing a bathing fixture and constructed so that complete privacy is available to the user.

"Bathroom" means a room containing *at least* one water closet (toilet), one hand basin, one bathing fixture, and constructed so that complete privacy is available to the user.

"Building" means any structure used or intended for supporting or sheltering any use or occupancy.

"Building Inspector" means the person so appointed from time to time by City of Duncan Council, and includes an officer, official, employee, or person acting for or in place of the Building Inspector.

“Cooking Facility” means an appliance in or upon which food may be heated.

“Dwelling Unit” means one or more structurally separate rooms, used as a unit for the residential accommodation of one family, and containing sleeping, cooking and toilet facilities.

"Habitable Room" means any room in a dwelling unit used or intended to be used for living, sleeping, cooking or eating purposes.

"Hand Basin" means a plumbing fixture primarily intended for the washing of hands, with hot and cold water connected thereto.

"Inspector" means those persons designated by Bylaw or resolution of Council for the purpose of administering this Bylaw and includes Bylaw Enforcement Officer and Building Inspector.

"Occupancy" means the use or intended use of a building or part thereof for the shelter or support of persons, animals or property.

"Owner" means the registered Owner, as the same appears on the records of the Victoria Land Title Office, or if there is registered an agreement for sale and purchase, "Owner" shall mean the person registered as the last holder either directly or by assignment of such agreement for sale.

"Person" where used in this Bylaw shall mean natural persons of either sex, associations, corporations, bodies politic, 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 person to whom the context shall apply according to law.

"Repair" includes the provision of such facilities and the making of additions or alterations or the taking of such action as may be required so that the building conforms to the standards established by this Bylaw.

"Sanitary Facilities" means any water closet, urinal, bathtub, shower or hand basin.

"Sink" means a plumbing fixture, primarily intended for the washing of dishes and utensils, with hot and cold water connected thereto.

"Tenancy Agreement" means an agreement, whether written or oral, expressed or implied, having a predetermined expiry date or not, between a landlord and tenant respecting possession of residential premises and the occupation of a room or premises in a hotel.

"Unsafe Condition" means any condition that could cause a hazard to life, limb or health of any person authorized or expected to be on or about the premises.

"Washroom" means a room that is equipped with washing (hand basin) and water closet facilities.

"Water Closet" means a plumbing fixture primarily intended for receiving human body waste for conveyance to the City sewer by means of flushing.

"Yard" means the land, other than publicly owned land, around and appurtenant to the whole or any part of a building and used or intended to be used, or capable of being used in connection with the building.

Severability and Headings

3. (1) If any section, subsection, sentence, clause or phrase of this Bylaw is for any reason held to be invalid by any court of competent jurisdiction, the decision shall not affect the validity of the remaining portions of this Bylaw.
- (2) Section headings do not form part of this Bylaw. They are included for convenience only and must not be used in interpreting this Bylaw.

Application

4. This Bylaw applies to all rental units and residential property, as those are defined in the *Residential Tenancy Act*, that are subject to a tenancy agreement, as defined in that Act.

Duty of Care

5. This Bylaw does not create any duty of care whatsoever on the City of Duncan, the Council Members, Officers, Inspectors or any employees or agents of the Municipality in respect of:
 - (1) inspections made by the Inspector or failure to make such inspections, or
 - (2) the enforcement or failure to enforce the provisions of this Bylaw.

Cause of Action

6. Neither the failure to make inspections, administer, enforce, any errors, omissions, neglect, incomplete or inadequate inspections, administration or enforcement of this Bylaw shall give cause of action in favour of any person, including the Owner.

Administrative Directions

7. Words defining the responsibilities and authority of the Inspector shall be construed to be an internal administrative direction and not as creating a duty.

Owner's Responsibility

8. (1) It is the responsibility of the Owner and the occupiers of all real property which is subject to this Bylaw to ensure that the real property conforms to this Bylaw.
- (2) If an Owner is required to do repairs to the building or structure located on the property, the repairs must conform to the City of Duncan Building Bylaw and in compliance with all applicable Bylaws and regulations.

ADMINISTRATION AND ENFORCEMENT

Authorization

9. (1) The Inspector is hereby authorized to undertake the administration and enforcement of this Bylaw.

Order

10. (1) The Inspector may issue an order to an Owner of a building or land directing that the building or land be brought into compliance with a provision of this Bylaw.
 - (2) A person must not fail to comply with an order issued pursuant to Subsection (1).

Right of Entry

11. The Inspector may enter any property for the purpose of investigating compliance with this Bylaw subject to the requirements of the *Community Charter*.

Identification

12. The Inspector entering private property must be in possession of credentials to identify them as duly authorized representative(s) of the City of Duncan.

Notice

13. The Inspector may give notice in accordance with this part to the Owner and to the occupier directing that a failure to conform to the standards in this Bylaw be corrected.

Form and Content of Notice to Comply to Bylaw Standards

14. Each notice:
 - (1) Shall be served on the persons specified in Section 15 and in the manner prescribed in Section 16.
 - (2) Shall describe the real property by
 - (a) name of Owner,
 - (b) Municipal address or location, and
 - (c) legal description.
 - (3) Shall state that the real property fails to conform to the standards prescribed in this Bylaw.
 - (4) Shall give reasonable particulars of the repairs or other actions required.

- (5) Shall state a reasonable time within which the repairs or other actions are to be effected from the date of service of the notice.

Service of Notice to Comply

15. A copy of a notice to comply shall be served upon the Owner of the property or the Owner's agent and where the property is not occupied by the Owner, upon an occupier of the property.

Mode of Service

16. Service of the notice to comply may be personal or by registered mail.

Tenants' Information

17. Tenants will be informed:
 - (1) that a notice has been served upon the Owner, and
 - (2) of the date by which the works are directed to be carried out.

Failure to Comply

18. (1) Any property Owner who fails to comply with a notice as described in Section 14. and served as detailed in Section 15. shall be in default of the requirements of this Bylaw set out in the Notice. Council may have the work carried out at the Owner's expense and recover the costs incurred from the Owner as a debt.
 - (2) All costs and expenses of the City, as a consequence of work carried out in Subsection (1), must be paid by the Owner or Owner under agreement of the property within thirty (30) days from the date of a statement of account from the City.
 - (3) Any costs and expenses referenced in subsection (2) remaining unpaid on December 31st of the year in which they are imposed, shall be added to and form part of the taxes payable on the property as taxes in arrears.

Obstruction of Inspector

19. A person must not prevent or obstruct any Inspector from carrying out the Inspector's powers and duties under this Bylaw.

Offence and Penalty

20. (1) Every person who violates any of the provisions of this Bylaw, or who causes, suffers, or permits any act or thing to be done in contravention or in violation of any of the provisions of this Bylaw, or who neglects or refrains from doing anything required to be done by any of the provisions of this Bylaw, or who fails to comply with any order, direction or notice given under

this Bylaw, is guilty of committing an offence against this Bylaw and is liable on summary conviction to a fine of not less than \$150.00 and to a maximum not exceeding the maximum allowed by the *Community Charter*, as amended, and the cost of prosecution.

- (2) Notwithstanding Section 20 (1), any person who is guilty of obstructing a Bylaw Enforcement Officer or Inspector while performing his/her duties in relation to this Bylaw is liable on summary conviction to a fine of not less than \$2,000.00, or to imprisonment, or to both a fine and imprisonment, not exceeding the maximum allowed by the *Community Charter*, as amended, and the cost of prosecution.
- (3) Where an offence under this Bylaw is of a continuing nature, each day that the offence continues or is permitted to exist shall constitute a separate offence.

General Duties and Obligations

21. (1) A person must not rent or offer to rent any rental accommodation that does not comply with this Bylaw.
- (2) The Owner of any rental accommodation must either repair and maintain the dwelling in accordance with the standards in this Bylaw, or demolish the whole or the offending part of any accommodation that is not in accordance with the standards in this Bylaw.

Compliance with Other Bylaws

22. Compliance with this Bylaw does not nullify the responsibility of Owners to comply with all other municipal Bylaws and regulations.

MINIMUM STANDARDS FOR DWELLING UNITS

Occupancy

23. Occupancy of any dwelling unit or room within a dwelling unit must conform to the *B.C. Building Code*.

Egress

24. Every dwelling unit must have continuous and unobstructed exit from the interior of the building to the exterior ground levels.

Natural Light and Ventilation

25. In any building, natural light and ventilation must be provided to the satisfaction of the Inspector in accordance with the *B.C. Building Code*.

Pest Prevention

26. A dwelling unit must be kept free of rodents, vermin and insects except those kept as pets in a cage or other enclosure.

GENERAL MAINTENANCE STANDARDS

Structural Integrity

27. Buildings and their structural members must be maintained in good repair and in a manner that provides sufficient structural integrity so as to sustain safely its own weight and any additional loads and influences to which it may be subjected through normal use.

Foundations

28. (1) Foundation walls and other supporting members must be maintained in good repair so as to control the entrance of moisture.
- (2) Without limiting the generality of Subsection (1), the necessary maintenance of foundation walls and other supporting members may include:
- (a) jacking up, underpinning or shoring the wall or walls where necessary,
 - (b) the installation of subsoil drains at the footing,
 - (c) grouting masonry cracks,
 - (d) waterproofing/damp-proofing the walls and joints,
 - (e) repairing or replacing of decayed, damaged or weakened sills, piers, posts, columns, or other supports, and
 - (f) making of sills, piers, posts, columns, or other supports waterproof/damp-proof and resistant to insects by the application of paint or other suitable materials or treatment.

Exterior Walls

29. (1) Exterior walls, parapet walls, and their components must be maintained without limitation, including:
- (a) good repair,
 - (b) weather tight,
 - (c) free from loose or unsecured objects and materials, and
 - (d) in a manner so as to prevent or retard deterioration due to weather or infestations, etc.
- (2) Without limiting the generality of Subsection (1), the necessary maintenance of an exterior wall may include the painting of all exterior wood and metal work, the repainting of previously painted but deteriorated surfaces as well as the restoration, repair or replacement of:
- (a) the wall,
 - (b) the bricks and mortar,

- (c) the stucco, lathing and plaster,
 - (d) the cladding,
 - (e) the coping,
 - (f) the caulking, and
 - (g) the weatherproofing of the wall and joints,
- (3) Canopies, marquees, awnings, screens, grilles, stairways, fire escapes, pipes, ducts, air conditioners and all other similar equipment, attachments, extensions and their supporting members must be maintained in good repair, properly and safety anchored and protected against deterioration and decay by the periodic application of a weather coating material such as paint or other protective treatment, unless constructed of materials inherently resistant to deterioration.
 - (4) Exterior wall facings, projections, cornices and decorative features must be maintained in good repair, safely and properly anchored.
 - (5) Air conditioners must be equipped and maintained with adequate devices for the prevention of condensation drainage onto entrance areas, sidewalks, or walkways.
 - (6) Mechanical ventilating systems and their supporting members must be maintained in good repair and in a safe mechanical condition.
 - (7) Any sign which is damaged or broken, or excessively weathered or faded must, with their fastenings and supporting members, be removed or repaired.

Exterior Doors and Windows

30. (1) Exterior doors, and windows, skylights, and hatchways must be maintained in good repair and weather tight.
- (2) Without limiting the generality of Subsection (1), the necessary maintenance may include:
 - (a) painting
 - (b) repairing or renewing damaged, decayed or deteriorated
 - (i) doors,
 - (ii) door frames, casings and thresholds,
 - (iii) window sashes, and
 - (iv) window frames and casings,
 - (c) refitting doors and windows,
 - (d) weather stripping,
 - (e) repairing or replacing defective or missing essential door and window hardware,
 - (f) reglazing, and
 - (g) using other suitable means of weatherproofing.

- (3) Openings in exterior walls, other than doors and windows, must be effectively sealed to prevent the entry of rodents, insects or vermin.
- (4) Latching and locking devices on exterior doors and windows must be maintained in good working order.
- (5) Doors providing automobile access to parking garages for residential parking must be:
 - (a) maintained at all times in good working order and repair, and
 - (b) kept locked or otherwise inoperable except when in use by authorized users.

Roof and Drainage

31. (1) The roof of every building, including the flashing, fascia, soffit, and cornice must be maintained in a weather tight condition so as to prevent leakage of water into the building.
- (2) Roofs must be kept free from loose or unsecured objects and materials.
- (3) Where a rain water collector system is not provided, roof drainage must be provided in such a manner so as not to create a concentrated flow of water which may penetrate the building or structure, or spill in an uncontrolled manner upon sidewalks, driveways, stairways or landings.
- (4) Eaves troughs and downspouts must be kept:
 - (a) in good repair,
 - (b) in good working order, and
 - (c) watertight and free from leaks.
- (5) All roof drain downspouts which are not connected to a storm sewer must be maintained such that soil erosion is prevented.

Stairs, Balconies, Fire Escapes and Porches

32. (1) Stairways, balconies, fire escapes or porches and landings in, on or appurtenant to a building must be maintained:
 - (a) in a safe and clean condition,
 - (b) in good repair, and
 - (c) free from
 - (i) holes,
 - (ii) rust,
 - (iii) cracks,
 - (iv) excessive wear and warping, and
 - (v) hazardous obstructions.

- (2) Without restricting the generality of Subsection (1), the necessary maintenance may include:
 - (a) repairing or replacing treads or floors that show excessive wear or are broken, warped or loose,
 - (b) repairing, replacing or supporting structural members that are decayed, deteriorated or loose,
 - (c) removing obstructions, and
 - (d) painting or coating with a preservative, unless constructed of material inherently resistant to deterioration.
- (3) Handrails and guards must be maintained in good repair. Handrails and guards that are replaced must conform to the *B.C. Building Code*.

Elevators

33. Every elevator in any building must be maintained in an operational condition at all times in accordance with the *Elevating Devices Safety Regulation*.

Basements

34. (1) Basement floor drains must be maintained in good condition.
- (2) Floors in a basement must be free from major cracks, breaks or similar conditions which would create an accident hazard or allow the entrance of water, insects and vermin into the basement.
- (3) Basement walls must be insulated to meet the requirements of the *B.C. Building Code*.

Floors

35. (1) Floors must be maintained in a clean condition, reasonably smooth and level and free of loose, warped or decayed boards, depressions, protrusions, deterioration or other defects which are health, fire or accident hazards.
- (2) Where floors are covered, the covering must be maintained in a safe condition, free from worn, torn, damaged or holed parts.
- (3) Bathing unit floors, washroom floors, and bathroom floors must be covered with moisture resistant floor finishes in accordance with the *B.C. Building Code* and in such condition as to permit easy cleaning.
- (4) Where floors are out of level by more than 25mm within 3 m (1 inch within 10 feet) of length they must be built up and made level, except where a slope is part of a design approved under permit.

Walls and Ceilings

- 36.** (1) Interior walls that form a fire separation must be maintained in a condition which retains the fire resistance rating of the wall.
- (2) Interior walls and ceilings must be maintained in good repair and free from holes, or loose or broken plaster that may create health, fire or accident hazards.
- (3) Interior walls within bathrooms, bathing units, and washrooms that are required to be water resilient must be maintained in a condition which retains the water resistance.
- (4) Surfaces of interior walls and ceilings must be maintained in a clean and sanitary condition and plumb within limits acceptable to the Building Inspector.

Plumbing and Plumbing Fixtures

- 37.** (1) All plumbing, including plumbing fixtures, drains, vents, water pipes, water closets and connecting lines to the water and sewer system, must be maintained in good working order and repair, free from leaks or other defects and protected from freezing.
- (2) Every hand basin and bathtub, shower and sink must have an adequate supply of hot and cold running water and every water closet must have an adequate supply of running water. Hot water must be supplied at minimum temperature of 45°C (113°F) and a maximum of 60°C (140°F).
- (3) Every room containing a toilet must have a hand basin located in the room, or in an immediately adjoining room.
- (4) All bathing units must be fully enclosed so as to provide privacy for an occupant.
- (5) Where an existing plumbing system appears to be in good repair, special attention should be given to:
- (a) prevention of cross-connections between potable water supply and washing machine drains, hot water heating lines and any other non-potable water uses.
 - (b) removal of unused grease traps,
 - (c) cleaning out of sumps, and providing backwater valves,
 - (d) providing cleanouts to all drains,
 - (e) cleaning out all waste traps,
 - (f) replacing damaged waste arms,
 - (g) extending all plumbing drain vents to the exterior, and
 - (h) capping off all unused pipes and drains that may create a health hazard.

Gas Appliances and Systems

- 38.** (1) All existing gas systems and appliances must be maintained in safe working order and in good repair.
- (2) Where existing gas systems are in good repair, special attention should be given to:
- (a) condition of all required safety devices such as automatic shut-offs,
 - (b) capping off unused gas lines,
 - (c) repairing and/or replacing faulty gas vent chimneys,
 - (d) removing unapproved flexible gas connections or unused appliances where applicable, and
 - (e) servicing all gas appliances where warranted.
- (3) All systems of appliance venting that may create a health, fire or accident hazard must be maintained in safe working order and in good repair.

Heating Systems

- 39.** (1) Heating equipment must be maintained in a safe and good working condition so as to be capable of safely attaining and maintaining an adequate temperature standard, free from fire and accident hazards and in all residential accommodation capable of maintaining every room at a temperature of 22°C (72°F) measured at a point 1.5 meters (5 feet) from the floor, and in the centre of the room.
- (2) Heating equipment must be provided for all rental accommodation. Such equipment must be either a central heating system, each unit will have an individual thermostat, or individual heating units, provided however that appliances designed for cooking must not be considered heating equipment for the purposes of this Section.
- (3) Where heating equipment or part of it or any auxiliary heating system burns solid or liquid fuel, a place or receptacle for the storage of such fuel must be provided and safely maintained in a convenient location and so constructed as to be free from fire or accident hazards.
- (4) Without restricting the generality of the foregoing, the necessary maintenance may include:
- (a) clearing obstructions from the chimney, flue, smoke pipe or other duct,
 - (b) sealing open joints and repairing masonry,
 - (c) using pipes or ducts of acceptable material and adequate size for a chimney, flue, smoke pipe or similar duct,
 - (d) replacing deteriorated or defective anchoring supports, and
 - (e) periodic application of a weather coating material such as paint or other protective treatment, unless constructed of materials inherently resistant to deterioration.

Electrical System, Lighting and Ventilation

40. (1) Electrical wiring and lighting equipment, including circuits, fuses, circuit breakers, electrical equipment and electrical heating systems must be maintained in good working order free from fire and accident hazards in accordance with the *Electrical Safety Regulation*.
- (2) (a) Extension cords must not be placed and/or attached:
- (i) through any doorway, transom, ceiling, wall or floor,
 - (ii) to any door frame, window frame, ceiling, wall or floor.
- (3) Notwithstanding Subsection (2), the use of extension cords for mobile equipment used for temporary purposes only may be permitted when such connection can be made without risk or hazard to persons or property.
- (4) Adequate levels of artificial lighting must be maintained in good working order in all habitable rooms and hallways in accordance with the *B.C. Building Code*.
- (5) All systems of ventilation, mechanical or natural must be maintained in good working order in accordance with the *B.C. Building Code*.

Yards and Accessory Buildings

41. (1) All yards must be kept free of all accumulation of filth, discarded materials, derelict motor vehicle bodies and associated parts, litter, trash and rubbish of any kind that is unsightly or creates a health or accident hazard.
- (2) Storm water must be drained from all yards by an acceptable method so as to prevent ponding or the entrance of water into basements.
- (3) All areas used for vehicular traffic, parking and facilities for loading and unloading, including loading spaces or bays must be kept free from refuse and maintained in good repair.
- (4) The steps, walkways, driveways and parking spaces on all land must be maintained so as to afford safe passage under normal use and weather conditions.
- (5) Unobstructed walkways must be available on all land leading from the main entrance of each building to the street or driveway and must be maintained in a safe condition.
- (6) Lighting equipment and its supports must be kept in safe and proper working condition.
- (7) Fences, barriers and retaining walls and other approved enclosures must be maintained in good repair, and free from accident hazards.

- (8) Accessory building(s) on all land must be kept in good repair and free from health and fire hazards. Exteriors of accessory buildings must be weather resistant through the use of weather resistant materials including paints or other preservatives.
- (9) Every Owner or occupier of land must keep the land, and any accessory building on it, in such condition that it will not afford harbourage for or become infested with pests, rodents or vermin.
- (10) If pests, rodents or vermin have infested land, or any accessory building on the land, the Owner of the land must eliminate the infestation.

Interior Fire and Health Safety Hazards

42. Walls, floors and roof constructions, including fire protective closures, sprinkler systems, including fire alarm, and detection systems and other means of fire protection, must be maintained in such manner to afford the fire resistant properties and protection for which they were designed.

Repeal

43. Bylaw No. 3001 and all amendments thereto are hereby repealed in their entirety.

Force and Effect

44. This Bylaw shall come into force and take effect upon adoption.

READ A FIRST TIME the 18th day of June, 2012.

READ A SECOND TIME the 18th day of June, 2012.

READ A THIRD TIME the 18th day of June, 2012.

ADOPTED the 16th day of July, 2012.

Lynn Ketch
Director of Corporate Services

Phil Kent
Mayor