

CITY OF WHITEHORSE
BYLAW 2017-09

A bylaw to establish and enforce minimum standards relating to the cleanliness, state of repair and maintenance of property in the City of Whitehorse

WHEREAS section 265 of the *Municipal Act* (R. S. Y. 2002) provides that council may pass bylaws for municipal purposes respecting:

- the safety, health, and welfare of people and the protection of persons and property,
- municipal services and improvements on private and public lands,
- nuisances, unsightly property, noise, and pollution,
- waste on public or private property and,
- subject to the *Highways Act*, the management and control of sidewalks, boulevards and all property adjacent to highways whether publicly or privately owned;

AND WHEREAS council deems it appropriate to adopt a new Maintenance Bylaw.

NOW THEREFORE the council of the municipality of the City of Whitehorse, in open meeting assembled, hereby ENACTS AS FOLLOWS:

SHORT TITLE

1. This bylaw may be cited as the "**Maintenance Bylaw**".

DEFINITIONS

2. In this bylaw:

“accessible parking space” has the same meaning as defined in the City of Whitehorse Traffic Bylaw as amended from time to time;

“bad repair” means a condition where a structure has:

- (1) significant damage;
- (2) broken, missing, or fallen parts;
- (3) rot or other significant deterioration;
- (4) visual evidence of a lack of general maintenance; or
- (5) any condition which is, or may become, a safety hazard;

“boulevard” means the land between the property line of a commercial or residential property and the curb, and if there is no curb, to the edge of the travelled portion of the roadway, lane or alley that is immediately contiguous to the property;

“City” means the City of Whitehorse;

"City Engineer" means the Manager of Engineering Services for the City or designate or a person acting in that position;

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"City Manager" means the City Manager of the City of Whitehorse or designate or a person acting in that position;

"construction equipment" means heavy equipment, including without limiting the generality of the forgoing, bulldozers, graders, backhoes, pay-loaders and cranes.

"council" means the duly elected council of the City of Whitehorse;

"curb" means a row of raised concrete or asphalt border along the edge of the roadway;

"Designated Officer" means the Manager of Bylaw Services, a Bylaw Services Constable, or a member of the Royal Canadian Mounted Police;

"Development Officer" means any one of the employees of the City of Whitehorse, who administer the provisions of the Zoning Bylaw;

"fee" means a fee as set out in the City of Whitehorse Fees and Charges Bylaw as amended from time to time;

"fence" means a structure, or any part of that structure, used as an enclosure or screening around all or part of a lot or site, and shall include, but not be limited to, a privately-built fence and a developer-built screening fence;

"graffiti" means one or more letters, symbols, or marks, however made, on any structure or surface, including a visual nuisance, but not including marks made accidentally or any of the following:

- (1) a sign, public notice or traffic control device authorized by the City, Territorial or Federal Government;
- (2) murals; or
- (3) letters, symbols or marks that have been approved by the City;

"grasses" means planted or wild vegetation including turf and weeds but excluding fireweed;

"highway" has the same meaning as defined in the *Yukon Motor Vehicles Act*, as amended from time to time;

"junked vehicle" means a vehicle or vehicle part that is not validly registered pursuant to the *Motor Vehicles Act* and is either in a rusted, wrecked, partly wrecked, dismantled, partly dismantled, inoperative or abandoned condition;

"lane crossing" means the depressed portion of a concrete or asphalt sidewalk that exists from an alleyway or lane to the roadway and shall not include gravel areas;

"landscaping" means changing, modifying or enhancing the visual appearance of a site which may include planting lawns, shrubs or trees or preserving the original natural vegetation or adding walks, fencing, patios or other ornamental features for the purpose of beautifying or screening the appearance of a lot;

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"Manager of Bylaw Services" means the Manager of the City of Whitehorse Bylaw Services Department or designate, or a person acting in that position;

"Manager of Parks and Community Development" means the Manager of the City of Whitehorse Parks and Community Development Department or designate, or a person acting in that position;

"Manager of Operations" means the Manager of the City of Whitehorse Operations Department or designate, or a person acting in that position;

"mural" means any drawing, painting, letter, symbol or mark applied to a wall of a building or structure with the consent of the owner of that building or structure, but does not include a visual nuisance;

"naturalization treatment" means landscaping into a native state using native plant materials, other than noxious weeds, that require little or no ongoing maintenance;

"noxious weeds" means any invasive plants that grow aggressively, multiply quickly without natural controls, and adversely affect native habitats, including but not limited to plants identified as invasive plants by the Yukon Government;

"occupier" means an occupier of property and includes the resident occupier of property or, if there is no resident occupier, the person entitled to the possession thereof, a lease-holder or a person having or enjoying in any way or for any purpose whatsoever the use of the property otherwise than as owner, whether or not the property or part thereof is an un-surveyed area, and includes a squatter;

"owner" means an owner of real property and includes a person having any right, title, estate or interest in real property other than that of an occupier or mortgagee;

"permit" means the City's written approval, with or without conditions, authorized and issued under this or any other bylaw;

"property" means an area of land, including the buildings and other structures erected on the property, but does not include a highway, except that "property" shall include privately owned roads, streets and parking lots;

"public lands" means all lands under the ownership or control of Her Majesty the Queen in Right of Canada, the Commissioner of the Yukon Territory, or the City of Whitehorse;

"refuse" means all domestic and commercial garbage and rubbish, including, without limiting the generality of the foregoing, organic and non-organic wastes, recyclable materials, junked vehicles, construction waste and discarded chattels.

"turf grass" means a surface layer of earth containing a dense growth of grass and its matted roots, sod or an artificial substitute for such a grassy layer, as on a playing field.

"visual nuisance" means the unsightly condition of property which, in the opinion of a Designated Officer or City Council, constitutes an unreasonable interference with the use and enjoyment by other persons of other property in the vicinity, whether publicly or privately owned.

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GENERAL PROVISIONS AND REGULATIONS

3. The City appoints the City Manager and the Manager of Bylaw Services to administer this bylaw.

RIGHT OF ENTRY

4. A Designated Officer may enter into or upon any property at any reasonable time to enforce or carry out the provisions of this bylaw, including, without limiting the generality of the foregoing, determining contraventions of or compliance with this bylaw or any Notice or Order issued pursuant to this bylaw and remedying contraventions.
5. Where entrance into or upon any property is refused, a Justice of the Peace, upon application made on behalf of council, may by order require the occupier to admit a Designated Officer into or upon the property.
6. An order made by a Justice of the Peace continues in force until the purpose for which it was made had been fulfilled.
7. Any person who fails to comply with an order of a Justice of the Peace is guilty of an offence.

ACCUMULATIONS PROHIBITED

8. No person shall cause, permit or allow refuse to accumulate upon a highway or upon property owned or occupied by him or upon public lands adjoining property owned or occupied by him such use is permitted by the Zoning Bylaw.
9. No person shall cause, permit or allow refuse to accumulate upon a highway or upon any public or private property unless such use is permitted by the Zoning Bylaw.
10. No person shall cause, permit or allow refuse to accumulate in any structure except in containers, bins, drawers, shelves or areas designed for temporary storage of such types of refuse.
11. No person shall store chattels in the front yard of any property in a residential area, with the exception of motor vehicles which are validly registered and licensed in accordance with the *Motor Vehicles Act* and which are parked in accordance with the Zoning Bylaw.
12. No person shall accumulate or store building materials, whether new, used or second-hand, outside on any property where the owner or occupier is not in possession of a valid building permit referring to such property, unless permitted by the Zoning Bylaw.
13. No person shall park or store outside on any property:
 - (1) a motor vehicle which is not validly registered and licensed in accordance with the *Motor Vehicles Act* and which is not stored or parked in accordance with the provisions of the Zoning Bylaw, unless it is covered by a tarp;

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- (2) chattels which are offered, or intended to be offered, for sale unless permitted by the Zoning Bylaw; and
 - (3) solid fuels such as wood, where the amount of solid fuel so stored is in excess of two winter seasons' supply for consumption on site, unless permitted by the Zoning Bylaw.
14. No person shall store, repair, clean, maintain, collect or service construction equipment, commercial trucks, tractors or semi-trailers on any property unless permitted by the Zoning Bylaw.

OFFENSIVE GROWTH

15. Every owner or occupier shall clear their property of brush, trees, or other growth that constitutes a fire or health hazard.
16. No owner or occupier shall allow grasses on the property or any adjacent boulevard to exceed a height of 10 centimetres.
17. No owner or occupier shall allow the accumulation of yard waste on the property such that the accumulation is visible to a person viewing from outside the property. For the purposes of this section, yard waste shall include grass clippings and tree and hedge cuttings, but shall not include ground cover or the contents of a composting pile as defined in the Solid Waste Bylaw.
18. The offensive growth provisions of this bylaw shall not apply to:
- (1) golf courses,
 - (2) City-owned boulevards that are not the maintenance responsibility of the adjacent property owner;
 - (3) decorative or ornamental grasses and native plants which comprise part of an intentional design; and
 - (4) treed natural areas serving the purpose of greenbelt.

SIDEWALK AND ACCESSIBLE PARKING SPACE CLEANLINESS

19. Every owner or occupier of any building bordering upon any highway shall keep the sidewalks in front of or abutting their building in a state of cleanliness, free from refuse and chattels, and no owner or occupier shall place refuse or chattels from their property or from the sidewalk abutting their property, on a highway without prior written permission or notification from the Manager of Operations.
20. Every owner or occupier of premises containing an area designated as an accessible parking space shall keep the accessible parking space in a state of cleanliness, free from refuse and chattels, and shall remove any refuse or chattels within 24 hours of it accumulating or being deposited, or immediately upon being requested to do so by a Designated Officer.

SIDEWALK AND ACCESSIBLE PARKING SPACE SNOW AND ICE REMOVAL

21. Every owner or occupier of commercial or residential property containing an accessible parking space shall remove snow or ice from the accessible parking

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space before the hour of eleven o'clock in the morning on the next day following a snowfall, or immediately upon being requested to do so by a Designated Officer.

22. Every owner or occupier shall remove snow or ice from the sidewalks and lane crossings bordering their property, or any portion of the lanes and sidewalks bordering on their property. Where snow or ice accumulates upon sidewalks or lane crossings after a snowfall:
- (1) every owner or occupier of commercial property bordering on a sidewalk or lane crossing shall remove the snow and ice from the sidewalk and lane crossing for safe pedestrian travel before the hour of eleven o'clock in the morning on the next day following a snowfall, or immediately upon being requested to do so by a Designated Officer. If a lane crossing borders on two properties, each property owner or occupier shall be responsible for the maintenance of half of the lane crossing.
 - (2) every owner or occupier of residential property bordering on a sidewalk or lane crossing shall remove the snow and ice from the sidewalk and lane crossing for safe pedestrian travel within 48 hours following a snowfall, or immediately upon being requested to do so by a Designated Officer. If a lane crossing borders on two properties, each property owner or occupier shall be responsible for the maintenance of half of the lane crossing.

DISPOSAL ON ROADWAY PROHIBITED

23. No person shall place snow, ice, dirt, debris or other materials from any accessible parking space, sidewalk, lane crossing, private property or driveway upon any other portion of a highway or public lands adjacent to a highway, unless they have obtained the prior written permission of the Manager of Operations, or onto private property other than their own, unless they have obtained prior written permission from the private property owner.

ROOF SNOW REMOVAL

24. Every owner or occupier of commercial property shall remove snow, ice or rubbish from the roof adjacent to or abutting on any portion of any highway, sidewalk or footpath, as soon as such accumulation becomes a hazard, or when requested to do so by a Designated Officer. With regard to any structure such as a canopy or awning adjacent to or abutting on or overhanging any portion of any highway, sidewalk or footpath, materials such as snow, ice and rubbish shall be removed immediately after accumulation occurs, or when requested to do so by a Designated Officer.

HIGHWAY NAMES

25. The City Planning Department shall be responsible for assigning names and/or numbers to highways within the City and for the placement of highway name or number signs.

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26. No person shall remove, deface or damage any highway name or number sign.

PRIVATE HIGHWAYS

27. Every owner of a private highway shall maintain it in a clean, fit and safe state and shall affix suitable signs indicating that such highway is a private thoroughfare.

ADDRESSING

28. The owner or occupier of premises on which a dwelling unit has been erected shall display the number assigned to the property at a location plainly visible from the highway upon which the house or building is situated. In the case of country residential lots, assigned numbers shall be placed on reflective backgrounds or be of reflective materials at least 15cm high, and shall be located within three metres of the highway upon which the house is situated.

BOULEVARD MAINTENANCE

29. These boulevard maintenance provisions do not apply to residential boulevards where there is no curb.
30. The owner or occupier of commercial or residential property fronting upon any boulevard shall maintain the boulevard in accordance with the following minimum standards:
- (1) the area shall be kept free of refuse;
 - (2) turf grass shall not exceed a height of 10 centimetres and in the case of native grasses which form part of a naturalization treatment, shall not exceed a height of 50 centimetres; and
 - (3) trees, plants, shrubs, flowers and turf shall be kept in a disease-free state and free of noxious weeds.
31. Retaining walls, fences or other structures are not permitted to be constructed on a City boulevard unless prior written approval from the City and all applicable permits are obtained.
32. Where the owner or occupier of commercial or residential property fronting upon any boulevard has installed or planted rocks, trees, shrubs, other types of vegetation or any other type of decorative covering, including without limiting the generality of the foregoing, retaining walls or other structures, such owner or occupier shall ensure that the coverings do not, in the opinion of the City Engineer, interfere with, impede or adversely affect the following:
- (1) road maintenance including snow removal;
 - (2) utility services;
 - (3) pedestrian use of sidewalks;
 - (4) traffic sight lines;
 - (5) clearance of at least one metre for any fire hydrant or fire hydrant valve; or
 - (6) public health or safety.

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33. Where grasses, shrubs, trees or other types of vegetation have been planted on a boulevard, the owner or occupier fronting such boulevard shall:
- (1) water plants in an amount and frequency sufficient to sustain plant growth;
 - (2) prune and remove trees in accordance with the City Tree Removal Policy;
 - (3) remove any sign, poster, handbill, flyer or any other device attached to any tree, light pole, or other infrastructure in the boulevard not specifically designed for such purpose;
 - (4) if the boulevard is deteriorated, landscape the boulevard to a standard determined by the Manager of Parks and Community Development; and
 - (5) not reconstruct the boulevard to create a parking area unless such reconstruction has received the prior written permission of the City of Whitehorse Street Sign and Traffic Committee.

BOULEVARD DAMAGE

34. No person shall damage:
- (1) a boulevard or the vegetation on a boulevard; or
 - (2) anything erected or maintained adjacent to a highway for the purpose of lighting or providing signage to the highway.
35. No person shall drive upon and no vehicle shall cross any boulevard except when it is necessary to cross part of the boulevard for the purpose of delivery or removal of furniture, household goods, or other like chattels, in which case planks of sufficient length and width shall be placed over the boulevard in front of the building in or from which such chattels or goods shall be delivered or removed, so that there is no damage or injury to that part of the boulevard.

EARTH REMOVAL

36. No person shall take up or dig or carry away any of the earth, sand or gravel in or from any highway or from any property owned by the City without the written permission of the City Engineer.
37. No person shall remove soil from vacant property, except with permission from the owner of the property and if required, having first obtained a permit granted by a Development Officer.

DAMAGE OR DEFACE PROPERTY

38. No person shall injure, damage, deface or disfigure any structure or improvement on property, including but not limiting the generality of the foregoing, any public or private building, wall, fence, hedge, railing, sign, monument, statue, light standard or telephone pole, in whole or in part.

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GRAFFITI

39. No person shall place graffiti or cause graffiti to be placed on any structure or surface of property that is adjacent to a highway or other public place, or which may be viewed from a neighbouring property.
40. No owner or occupier shall cause, permit or allow graffiti to be on any surface or structure of their property.
41. Every owner or occupier shall remove from their property any accumulation of graffiti within 30 days of becoming aware of the graffiti.

NOISE

42. No person shall make, cause, or permit unreasonable noise or sound, including, without limiting the generality of the foregoing, on a highway or on property owned or occupied by them, which disturbs, or which would in the opinion of a Designated Officer, disturb the quiet, peace, rest, enjoyment or comfort of any person of reasonable sensitivity in the neighbourhood or vicinity.
43. In determining if a noise or sound is unreasonable, the following criteria may be considered:
 - (1) type, quality, volume, and duration of the sound;
 - (2) time of day and day of week;
 - (3) nature and use of the surrounding area; and
 - (4) any other relevant factor.

NOISE EXEMPTIONS

44. The emission or creation of noise or sound in connection with the following are excluded from the provisions of this bylaw:
 - (1) City crews providing a service to the public, including without limiting the generality of the foregoing, a service of public convenience or necessity;
 - (2) fire alarms
 - (3) bells or chimes from religious establishments and schools;
 - (4) noise or sound created in connection with emergency measures or emergency services undertaken for health, safety or welfare;
 - (5) the use of traffic control or pedestrian devices;
 - (6) in the opinion of the Designated Officer, noise which is reasonable and necessary for the enjoyment and use of property; and
 - (7) children playing.
45. Construction equipment and waste management trucks shall not be operated between the hours of eleven o'clock at night and seven o'clock in the morning (11:00 p.m. to 7:00 a.m.) except with the permission of the City Manager or the City Engineer. This provision does not apply to City construction equipment being used for City purposes including utility repair and road maintenance.

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46. No person shall shout or use a megaphone or other noise-making devices in, or at, or on the highways or other public places of the City without having first obtained a permit from the City Manager or the Manager of Bylaw Services.

AIR POLLUTION

47. No person shall discharge or allow the discharge into the atmosphere of any dust, soot, fumes, noxious gases, cinders, smoke, sparks, ash or other solid or liquid particles, or effluvia, or any other products of combustion to any extent or degree, that may be or are liable to become injurious to the health, comfort, property or welfare of any person.

MAINTENANCE OF PROPERTY

48. No person shall cause, permit, or allow property owned or occupied by them to be in bad repair or to constitute a danger.

APPLIANCES

49. No owner or occupier shall allow a refrigerator, freezer or other appliance to be stored outside on their property without first removing the lid or door of the unit.
50. No owner or occupier shall allow any appliance to be stored outside on their property such that the appliance is visible to a person viewing from outside the property.
51. The appliance provisions shall not apply if the appliance:
- (1) remains locked at all times; and
 - (2) is not visible to a person viewing from outside the property.

NOTICE

52. A Designated Officer, Development Officer, the City Engineer or the Manager of Parks and Community Development may give notice to any person who contravenes this bylaw.
53. Where notice is given, such notice shall be in writing and signed by a Designated Officer, Development Officer, the City Engineer or the Manager of Parks and Community Development, and shall specify all of the information required to be contained in an order pursuant to section 56 of this bylaw, excluding the consequences of non-compliance and excluding the right to appeal the notice to council.

ORDER TO REMEDY A CONTRAVENTION

54. The City Manager or the Manager of Bylaw Services may issue an order to any person who has contravened this bylaw or to an owner or occupier where a contravention of this bylaw is found, and such person shall comply with the order within the time limits specified in the order.
55. Every person who fails to comply with an order commits an offence.

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56. An order shall contain at least the following information:
- (1) the name and address of the person on whom the order is served;
 - (2) the day on which the contravention was alleged to have been committed or discovered;
 - (3) the address of the property where the contravention was found or took place;
 - (4) reasonable particulars of the contravention;
 - (5) a requirement that the person served shall remedy the contravention, and how compliance shall be effected;
 - (6) a prescribed time frame during which the contravention must be remedied;
 - (7) the consequences of non-compliance, including the advice that if the person does not comply with the order within the prescribed time-frame, the City will take action or measures to remedy the contravention at the expense of the person;
 - (8) the right of the person to appeal the order to council within 14 days of being served with the order.
57. If any person fails to comply with an order within the time-frame prescribed in the order, the City may, by its employees and others, enter the property and effect compliance at the expense of the person. In addition to any other penalties that may be imposed pursuant to this bylaw, the City may thereafter bill such person for these charges.

REVIEW OF ORDER BY COUNCIL

58. A person who receives an order may, by providing written notice to the City Manager within 14 days of being served with the order, request that council review the order.
59. Any notice or order may be served by:
- (1) delivering the notice or order to the person; or
 - (2) mailing the notice or order by registered or certified mail to the person's last known post office address, in which case it shall be deemed to be received five business days after being mailed.

ENFORCEMENT

60. Every person who contravenes any provision of this bylaw or who suffers or permits any act or thing to be done in contravention of any provision of this bylaw, or who neglects or refrains from doing anything required to be done by any provision of this bylaw shall be guilty of an offence punishable on summary conviction and is liable to a fine not exceeding:
- (1) \$10,000.00; or

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- (2) a voluntary fine under the *Summary Convictions Act*, issued in respect of an offence specified in Schedule "A" attached hereto and forming part of this bylaw.
61. Each day that an offence against this bylaw continues or exists shall be deemed to be a separate and distinct offence.
62. Any outstanding fines, fees, or costs, including without limiting the generality of the foregoing, those costs incurred by the City after a person fails to comply with an order, which are unpaid by an owner or occupier, may be charged against the person's property, and may be recovered in the same manner as a tax may be collected or enforced under the *Municipal Act*.
63. Issuance of a notice is not a prerequisite to issuing an order.
64. Issuance of a notice or order is not a prerequisite to proceeding with a prosecution pursuant to this bylaw.

GENERAL INTERPRETATION

65. The invalidity of any section, sentence, or provision of this bylaw shall not affect the validity of any other part of this bylaw that can be given effect without such invalid part or parts.

REPEAL OF PREVIOUS LEGISLATION

66. Bylaw 2011-03, including any amendments thereto, is hereby repealed.

COMING INTO FORCE

67. This bylaw shall come into full force and effect upon the final passing thereof.

FIRST and SECOND READING: April 10, 2017

THIRD READING and ADOPTION: April 24, 2017

ORIGINAL BYLAW SIGNED BY:

"Dan Curtis"

Dan Curtis, Mayor

"N. L. Felker"

Norma L. Felker, Assistant City Clerk

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SCHEDULE "A"

SCHEDULE OF VOLUNTARY FINES

<u>Section</u>	<u>Description</u>	<u>Fine</u>
8	Allow accumulations of refuse	\$100.00
9	Allow accumulation of refuse on public lands	\$100.00
10	Allow accumulation of refuse in structure	\$100.00
11	Allow storage in residential front yards	\$100.00
12	Allow accumulation or storage of building materials	\$100.00
13 (1)	Park or store unregistered motor vehicle	\$100.00
13 (2)	Unauthorized storing of chattels	\$100.00
13 (3)	Store excessive solid fuels	\$50.00
14	Unauthorized activity with construction equipment, etc.	\$100.00
15	Allow vegetation to become a fire or health hazard	\$250.00
16	Allow grasses exceeding a height of 10 cm	\$50.00
17	Unauthorized accumulation of yard waste	\$100.00
19	Fail to keep sidewalk clean and clear	\$100.00
20	Fail to keep accessible parking space clean and clear	\$250.00
21	Fail to remove snow/ice from accessible parking space	\$250.00
22	Fail to remove snow as directed	\$100.00
23	Place material on public property	\$100.00
24	Fail to remove snow/ice/rubbish from roof	\$100.00
26	Remove, deface or damage sign	\$250.00
27	Fail to maintain private thoroughfare	\$100.00
28	Fail to display house number	\$100.00
30 (1 – 3)	Fail to maintain minimum boulevard standards	\$50.00
31	Unauthorized construction on boulevard	\$250.00
32	Cause impediment on boulevard	\$250.00
33 (1 – 4)	Fail to maintain boulevard	\$50.00
33 (5)	Construct parking area on boulevard	\$250.00
34 (1 – 2)	Cause damage to boulevard, vegetation, signage, etc.	\$100.00

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SCHEDULE "A" (Continued) SCHEDULE OF VOLUNTARY FINES

<u>Section</u>	<u>Description</u>	<u>Fine</u>
35	Drive on boulevard	\$100.00
36	Unauthorized removal of earth from highway/property	\$250.00
37	Unauthorized removal of earth from vacant property	\$250.00
38	Damage or deface property	\$250.00
39	Place graffiti	\$250.00
40	Owner/occupier permits or allows graffiti	\$250.00
41	Owner/occupier fails to remove graffiti	\$250.00
42	Disturb the quiet, peace and rest of others (1 st offence)	\$100.00
42	Disturb the quiet, peace and rest of others (2 nd offence)	\$250.00
45	Construction equipment/waste trucks noise violation	\$100.00
46	Unauthorized use of noise making device	\$100.00
47	Commit act of air pollution	\$100.00
48	Owner/occupier permits property in bad repair	\$250.00
49	Improper storage of appliances	\$250.00
50	Appliance visible from outside of property	\$50.00