

TO: CHIEF ADMINISTRATIVE OFFICER **DATE:** 2021 Sep 09

FROM: DIRECTOR PUBLIC SAFETY AND COMMUNITY SERVICES **FILE:** BYL18-00969

SUBJECT: UNSIGHTLY PROPERTY AT 4090 NITHSDALE STREET

PURPOSE: To obtain Council authority for City Staff and/or agents to enter onto the property at 4090 Nithsdale Street in order to bring the property into compliance with the Burnaby Unsightly Premises Bylaw, No. 5533.

RECOMMENDATION:

1. **THAT** Council authorize City staff and/or agents to enter the property at 4090 Nithsdale Street to remove and dispose of any overgrowth, materials or debris contributing to the unsightliness of the property at the expense of the property owner, as permitted by the Burnaby Unsightly Premises Bylaw, No. 5533.

REPORT

1.0 BACKGROUND

4090 Nithsdale Street is zoned Residential District (R5) and is improved with a single family dwelling. Staff have determined the property is occupied by one of the two property owners on title. An aerial photograph of the property is included as **Attachment #1**.

There have been a total of five (5) unsightliness complaints against the property since 2008, received from three (3) different persons. As a result of complaints received in 2008 and 2011, Council approved a staff recommendation to have City staff clean the property. The property was cleaned on 2012 November 15.

Since cleaning the site in 2012, three additional complaints have been received, (one in 2016, a second in 2018 and the third in 2021). These three complaints were submitted by two different complainants.

The complete complaint log for the property is as follows:

| Complaint # | Date complaint received | Complainant (identity concealed) |
|--|-------------------------|----------------------------------|
| 1 | 2008 March 17 | A |
| 2 | 2011 July 13 | B |
| 2012 November 15 - City staff cleaned property | | |

To: Chief Administrative Officer
 From: Director – Public Safety and Community Services
 Re: Unsightly Premises at 4090 Nithsdale Street
 2021 September 09.....Page 2

| | | |
|---|--------------|---|
| 3 | 2016 July 18 | B |
| 4 | 2018 June 26 | B |
| 5 | 2021 June 14 | C |

2.0 POLICY SECTION

Goal

- A Safe Community
 - Crime prevention and reduction – Ensure citizens and businesses feel safe in our community
- A Healthy Community
 - Healthy environment – Enhance our environmental health, resilience and sustainability

3.0 STAFF ACTIONS TAKEN TO ENCOURAGE VOLUNTARY COMPLIANCE

3.1 Site Inspections

Since receiving the complaint on 2018 June 26 staff have attended the property on 12 occasions. The dates and findings of each inspect are as follows:

| Inspection # | Date | Findings |
|--------------|------------------|---|
| 1 | 2018 June 26 | ▪ Property not in compliance with bylaw |
| 2 | 2018 October 25 | ▪ Some cleanup – still unsightly |
| 3 | 2018 December 14 | ▪ No additional cleanup – still unsightly |
| 4 | 2019 January 03 | ▪ No additional cleanup – still unsightly |
| 5 | 2019 February 28 | ▪ No additional cleanup – still unsightly |
| 6 | 2019 April 16 | ▪ No additional cleanup – still unsightly |
| 7 | 2021 May 30 | ▪ Property unsightly |
| 8 | 2021 June 04 | ▪ Property unsightly |
| 9 | 2021 June 11 | ▪ Minor cleanup – still unsightly |
| 10 | 2021 June 21 | ▪ No additional cleanup – still unsightly |
| 11 | 2021 July 19 | ▪ No additional cleanup – still unsightly |
| 12 | 2021 August 12 | ▪ No additional cleanup – still unsightly |
| 13 | 2021 September 9 | ▪ No additional cleanup – still unsightly |

3.2 Contact with Property Owner

After each inspection staff contacted the property owners advising that the property was still noncompliant with the Bylaw, and provided direction on necessary actions required

To: Chief Administrative Officer
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to bring the property into voluntary compliance. These communications, and attempts to communicate, are as follows:

| Contact # | Date | Communication type |
|-----------|------------------|--|
| 1 | 2018 August 24 | ▪ Letter |
| 2 | 2018 December 17 | ▪ Letter |
| 3 | 2019 February 28 | ▪ Knocked at residence – no response |
| 4 | 2019 April 16 | ▪ Knocked at residence – no response |
| 5 | 2021 May 30 | ▪ Staff spoke with property owner – written response requested |
| 6 | 2021 June 04 | ▪ Staff spoke with possible tenant – property owner not present |
| 7 | 2021 June 04 | ▪ Letter (hand-delivered) |
| 8 | 2021 June 07 | ▪ Voice message left by property owner – travelling out-of-province to attend to sick mother – claims will cleanup |
| 9 | 2021 June 11 | ▪ Knocked at residence with no response – neighbour states property owner not at home |
| 10 | 2021 June 14 | ▪ Attempted two phone numbers for property owner both not in service |
| 11 | 2021 June 21 | ▪ Knocked at residence – no response |
| 12 | 2021 August 12 | ▪ Voice message left for property owner at 3 rd phone number |
| 13 | 2021 August 12 | ▪ Site visit with property owner by City & RCMP |
| 14 | 2021 September 9 | ▪ Individuals in yard, they advised property owner not home |

Copies of the relevant correspondence are included as **Attachment #2**.

3.3 Bylaw Violation Notices Issued

As a result of the continued Bylaw noncompliance, three Bylaw Violation Notices (BVN) were issued to both property owners. The BVN status is as follows:

| BVN # | Date Issued | Status |
|-------|-----------------|--------|
| 1 | 2019 January 03 | Paid |
| 2 | 2019 March 06 | Unpaid |
| 3 | 2019 April 18 | Unpaid |

Copies of these Notices are included as **Attachment #3**.

To: Chief Administrative Officer
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4.0 FINAL STAFF ACTIONS PRIOR TO SEEKING COUNCIL AUTHORIZATION

Despite repeated attempts by staff to encourage the owners to voluntarily bring the property into compliance, 4090 Nithsdale Street remains noncompliant with the Unsightly Premise Bylaw.

On 2021 August 12, staff advised the property owner via telephone message that unless the property was brought into compliance staff would request Council authorization to clean the site at the owner's expense. On 2021 September 09, staff again attended the property. This site visit revealed the subject property remains noncompliant. Photographs taken on that date, illustrating the current state of the property, are included as **Attachment #4**.

5.0 RECOMMENDATION

Council authorize staff and/or agents to enter onto the property at 4090 Nithsdale Street to effect the removal and disposal of any overgrowth, debris or materials contributing to the unsightliness of the property at the expense of the property owners, under the provisions of the Burnaby Unsightly Premises Bylaw No. 5533.

The property owners will be invoiced for the cost of any work performed shortly after the cleanup is completed. If the charges remain unpaid on the 31st day of December of the year in which the expenses are incurred, the bylaw permits the cost to be added, and form part of, the taxes payable in respect of the real property, as taxes in arrears.

Should Council adopt the recommendation, prior to undertaking the cleanup, staff will provide the property owners with a final notice. The notice will advise the owners that the property must be brought into compliance with the Bylaw no later than 15 days after Council approves the recommendation in order to avoid the municipality undertaking the cleanup and charging the costs to the property owners.


Dave Critchley
DIRECTOR PUBLIC SAFETY & COMMUNITY SERVICES

ATTACHMENTS:

1. Aerial Photograph of 4090 Nithsdale Street
2. Correspondence sent to the property owners
3. Bylaw Violation Notices issued to the property owners
4. 2021 September 09 photographs of 4090 Nithsdale Street

Copied to: Director Engineering
City Solicitor

Attachment 1# - 4090 Nithsdale Street





Licence Office
Public Safety and Community Services Department

2018 August 24

FILE: BYL18-00969

Redacted as per FOIPPA
Section 22

Redacted as per FOIPPA
Section 22

**SUBJECT: UNSIGHTLY PREMISES AT
4090 NITHSDALE STREET**

An inspection of 4090 Nithsdale Street conducted on 2018 July 24 revealed that the property was untidy or unsightly.

In order to bring your property in compliance with the Burnaby Unsightly Premises Bylaw, please remove or remedy the following items on or before **2018 September 24** when a re-inspection will be conducted.

- Overgrown grass, weeds, vines and blackberry bushes;
- Discarded items including, but not limited to, cardboard boxes, plastic bags, kitchenware, lumber, insulation, luggage, and bags of garbage;
- An unlicensed and possibly derelict vehicle. A derelict vehicle is considered any vehicle that is uninsured for highway use **and** is inoperable.

Your voluntary cooperation in resolving this matter is appreciated. If you have any questions or would prefer an earlier inspection, please contact the undersigned at 604-294-7989.

A handwritten signature in blue ink, appearing to read "Robert Grimm".

Robert Grimm
Property Use Coordinator
Phone: 604-294-7989
Email: Robert.Grimm@burnaby.ca

RG:ja



Licence Office
Public Safety and Community Services Department

2018 December 17

FILE: BYL18-00969

Redacted as per FOIPPA Section 22

Redacted as per FOIPPA Section 22

**SUBJECT: UNRESOLVED UNSIGHTLY PREMISES
4090 NITHSDALE STREET**

Despite previous correspondence advising you that the Burnaby Unsightly Premises Bylaw does not permit property owners or occupiers to allow real property to become or to remain untidy or unsightly, this matter remains unresolved. An inspection conducted on 2018 December 14, revealed that 4090 Nithsdale Street remains in violation of the Unsightly Premises Bylaw, which states:

3. *"Every owner or occupier of real property or the agent of such owner or occupier shall remove from the said real property any accumulation of filth, discarded materials, or rubbish of any kind, or any derelict vehicle or derelict vehicles, and in default of such removal the municipality by its workmen and others may enter upon the said real property and effect such removal at the expense of the person so defaulting and the charges for so doing, if unpaid on the 31st day of December in any year, shall be added to and form part of the taxes payable in respect of that real property as taxes in arrear".*
- 3A. *Every owner or occupier of real property, or their agents, shall clear the property of brush, noxious weeds or other growths, and upon failure to do so the City of Burnaby, by its employees or other persons, at reasonable times and in a reasonable manner, may enter on the property and effect the clearing at the expense of the person who has failed to comply, and the expenses for so doing, if unpaid on the 31st day of December of the year in which the expenses are incurred, shall be added to and form part of the taxes payable in respect of that real property as taxes in arrear.*

During the re-inspection the following was observed:


Attachment #2 Continued

Re
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Subject: *Unresolved Unsightly Premises at 4090 Nithsdale Street*
2018 December 17 Page 2

- Discarded items including, but not limited to, used building materials, broken toys, electronics, luggage, rolls of wet cork, disassembled household goods (a fan, etc.), bags of used insulation, random lengths of wood, strapping, metal shelves, paint cans, metal frames, plastic containers, salvaged granite counter-tops, tarps, glass closet doors, and other miscellaneous items.
- Overgrown shrubs, as well as dead vegetation and cut branches.

A final inspection will be conducted on **2019 January 03** to ensure the aforementioned items have been removed or cleaned up. Failure to bring the property into compliance will result in the Licence Office seeking Council authority to have City staff or other workers enter onto the property and undertake a clean-up at the expense of the property owner, or issue a Bylaw Violation Notice with a fine amount of \$500.00. Further Bylaw Violation Notices may be issued for continued non-compliance.

Your voluntary cooperation in resolving this matter is appreciated. If you have any questions or would prefer an earlier inspection, please contact the undersigned at 604-294-7989.



Robert Grimm
Property Use Coordinator
Phone: 604-294-7989
Email: Robert.Grimm@burnaby.ca

RG:kl



Licence Office
Public Safety and Community Services Department

2021 June 04

FILE: BYL18-00969

Redacted as per FOIPPA Section 22

Redacted as per FOIPPA Section 22

**SUBJECT: UNRESOLVED UNSIGHTLY PREMISES
4090 NITHSDALE STREET**

Despite previous correspondence advising you that the Burnaby Unsightly Premises Bylaw does not permit property owners or occupiers to allow real property to become or to remain untidy or unsightly, this matter remains unresolved. An inspection conducted on 2021 May 30 revealed that 4090 Nithsdale Street remains in violation of the Unsightly Premises Bylaw, which states:

3. *"Every owner or occupier of real property or the agent of such owner or occupier shall remove from the said real property any accumulation of filth discarded materials, or rubbish of any kind, or any derelict vehicle or derelict vehicles, and in default of such removal the municipality by its workmen and others may enter upon the said real property and effect such removal at the expense of the person so defaulting and the charges for so doing, if unpaid on the 31st day of December in any year, shall be added to and form part of the taxes payable in respect of that real property as taxes in arrear".*
- 3A. *Every owner or occupier of real property or their agents, shall clear the property of brush noxious weeds or other growths, and upon failure to do so the City of Burnaby by its employees or other persons, at reasonable times and in a reasonable manner may enter on the property and effect the clearing at the expense of the person who has failed to comply, and the expenses for so doing, if unpaid on the 31st day of December of the year in which the expenses are incurred, shall be added to and form part of the taxes payable in respect of that real property as taxes in arrear.*

Attachment #2 Continued

Redacted as per FOIPPA Section 22

*Subject: Unresolved Unsightly Premises at 4090 Nithsdale Street
2021 June 04Page 2*

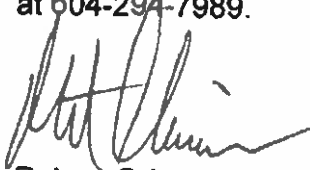
During the re-inspection the following was observed:

- Discarded items including, but not limited to, clothing, personal belongings, tarps, loose wood chips, plastic containers, tires, automotive parts, used lumber, newspapers, plastic shopping bags, and full garbage bags;
- Vehicles without valid driving insurance to operate on a highway, and that appear inoperable;
- Overgrown vegetation including, but not limited to, grass, weeds, blackberry bushes, shrubs and trees.

A final inspection will be conducted on 2021 June 21 to ensure the aforementioned items have been removed or cleaned up. Due to the length of time that the property has been non-compliant, and past documented instances of unsightliness concerning the subject property, no compliance extensions will be considered.

Failure to bring the property into compliance will result in the Licence Office seeking Council authority to have City staff or other workers enter onto the property and undertake a clean-up at the expense of the property owners.

Your voluntary cooperation in resolving this matter is appreciated. If you have any questions or would prefer an earlier compliance inspection, please contact the undersigned at 604-294-7989.



Robert Grimm
Property Use Coordinator
Phone 604-294-7989
Email Robert.Grimm@burnaby.ca

RG:ad



Bylaw Violation Notice

BYLAW VIOLATION NOTICE #: L200830

PLU: 1149-Lic Violation

ISSUED TO: Redacted as per FOIPPA Section 22

ISSUE DATE: January 07, 2019

ADDRESS: Redacted as per FOIPPA Section 22

BYLAW NAME: BBY UNSIGHTLY PREMISES BYLAW

SECTION: 2

DESCRIPTION OF CONTRAVENTION: L2073-PROPTY UNTIDY OR UNSIGHTLY

SUBSECTION AND DESCRIPTION:

Allowing property to become or remain untidy or unsightly

CONTRAVENTION DATE AND TIME: January 3, 2019 11:05 am

CONTRAVENTION LOCATION: 4090 NITHSDALE ST

ASSOCIATED TICKETS: L200831

ISSUING OFFICER: 00521-GRIMM

PAYMENT:

| | | |
|-----------------------|-------------------------|---------------|
| IF PAID ON OR BEFORE: | January 29, 2019 | 400.00 |
| IF PAID AFTER: | January 29, 2019 | 500.00 |

Option 1 - PAYMENT

(If you pay this ticket you CANNOT dispute it)

Payment by credit card will be charged a 1.75% non-refundable fee for credit card merchant fee recovery. Bylaw Number: 13640

Pay by Web: www.burnaby.ca/paytickets

Mailed or delivered to: City of Burnaby - Tax Office
Violation Payment
4949 Canada Way
Burnaby, BC V5G 1M2

*Bylaw Violation Notice Number must appear on Cheque or Money Order

- Cheque or Money Order payable to City of Burnaby
- Do not send cash through the mail
- A dishonoured cheque is not payment. We charge an administration fee for dishonoured cheques
- Postmarks not accepted as date of payment

Pay in Person:

Cash, Cheque, Visa, Mastercard, American Express, Interac

Due to the COVID-19 pandemic in-person visits to City Hall are suspended until further notice.

To pay by cash or debit please make an appointment by calling 604-294-7934.

Attachment #3 Continued



Bylaw Violation Notice

BYLAW VIOLATION NOTICE #: L200831

PLU: 1149-Lic Violation

ISSUED TO: Redacted as per FOIPPA Section 22

ISSUE DATE: January 07, 2019

ADDRESS: Redacted as per FOIPPA Section 22

BYLAW NAME: BBY UNSIGHTLY PREMISES BYLAW

SECTION: 2

DESCRIPTION OF CONTRAVENTION: L2073-PROPTY UNTIDY OR UNSIGHTLY

SUBSECTION AND DESCRIPTION:

Allowing property to become or remain untidy or unsightly

CONTRAVENTION DATE AND TIME: January 3, 2019 11:05 am

CONTRAVENTION LOCATION: 4090 NITHSDALE ST

ASSOCIATED TICKETS: L200830

ISSUING OFFICER: 00521-GRIMM

PAYMENT:

IF PAID ON OR BEFORE: January 29, 2019 400.00

IF PAID AFTER: January 29, 2019 500.00

Option 1 - PAYMENT

(If you pay this ticket you CANNOT dispute it)

Payment by credit card will be charged a 1.75% non-refundable fee for credit card merchant fee recovery. Bylaw Number: 13640

Pay by Web: www.burnaby.ca/paytickets

Mailed or delivered to: City of Burnaby - Tax Office
Violation Payment
4949 Canada Way
Burnaby, BC V5G 1M2

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- Cheque or Money Order payable to City of Burnaby
- Do not send cash through the mail
- A dishonoured cheque is not payment. We charge an administration fee for dishonoured cheques
- Postmarks not accepted as date of payment

Pay in Person:

Cash, Cheque, Visa, Mastercard, American Express, Interac
Due to the COVID-19 pandemic in-person visits to City Hall are suspended until further notice.
To pay by cash or debit please make an appointment by calling 604-294-7934.



Bylaw Violation Notice

BYLAW VIOLATION NOTICE #: L200853

PLU: 1149-Lic Violation

ISSUED TO: Redacted as per FOIPPA Section 22

ISSUE DATE: March 06, 2019

ADDRESS: Redacted as per FOIPPA Section 22

BYLAW NAME: BBY UNSIGHTLY PREMISES BYLAW

SECTION: 2

DESCRIPTION OF CONTRAVENTION: L2073-PROPTY UNTIDY OR UNSIGHTLY

CONTRAVENTION DATE AND TIME: February 28, 2019 11:35 am

CONTRAVENTION LOCATION: 4090 NITHSDALE ST

ASSOCIATED TICKETS: L200854

ISSUING OFFICER: 00521-GRIMM

PAYMENT:

IF PAID ON OR BEFORE: **March 28, 2019** **400.00**

IF PAID AFTER: **March 28, 2019** **500.00**

Option 1 - PAYMENT

(If you pay this ticket you CANNOT dispute it)

Payment by credit card will be charged a 1.75% non-refundable fee for credit card merchant fee recovery. Bylaw Number: 13640

Pay by Web: www.burnaby.ca/paytickets

Mailed or delivered to: City of Burnaby - Tax Office
Violation Payment
4949 Canada Way
Burnaby, BC V5G 1M2

*Bylaw Violation Notice Number must appear on Cheque or Money Order

- Cheque or Money Order payable to City of Burnaby
- Do not send cash through the mail
- A dishonoured cheque is not payment. We charge an administration fee for dishonoured cheques
- Postmarks not accepted as date of payment

Pay in Person: Cash, Cheque, Visa, Mastercard, American Express, Interac

Due to the COVID-19 pandemic in-person visits to City Hall are suspended until further notice.
To pay by cash or debit please make an appointment by calling 604-294-7934.



Bylaw Violation Notice

BYLAW VIOLATION NOTICE #: L200854

PLU: 1149-Lic Violation

ISSUED TO: Redacted as per FOIPPA Section 22

ISSUE DATE: March 06, 2019

ADDRESS: Redacted as per FOIPPA Section 22

BYLAW NAME: BBY INSIGHTLY PREMISES BYLAW

SECTION: 2

DESCRIPTION OF CONTRAVENTION: L2073-PROPTY UNTIDY OR UNSIGHTLY

CONTRAVENTION DATE AND TIME: February 28, 2019 11:35 am

CONTRAVENTION LOCATION: 4090 NITHSDALE ST

ASSOCIATED TICKETS: L200853

ISSUING OFFICER: 00521-GRIMM

PAYMENT:

| | | |
|-----------------------|-----------------------|---------------|
| IF PAID ON OR BEFORE: | March 28, 2019 | 400.00 |
| IF PAID AFTER: | March 28, 2019 | 500.00 |

Option 1 - PAYMENT

(If you pay this ticket you CANNOT dispute it)

Payment by credit card will be charged a 1.75% non-refundable fee for credit card merchant fee recovery. Bylaw Number: 13640

Pay by Web: www.burnaby.ca/paytickets
 Mailed or delivered to: City of Burnaby - Tax Office
 Violation Payment
 4949 Canada Way
 Burnaby, BC V5G 1M2

*Bylaw Violation Notice Number must appear on Cheque or Money Order

- Cheque or Money Order payable to City of Burnaby
- Do not send cash through the mail
- A dishonoured cheque is not payment. We charge an administration fee for dishonoured cheques
- Postmarks not accepted as date of payment

Pay in Person: Cash, Cheque, Visa, Mastercard, American Express, Interac
 Due to the COVID-19 pandemic in-person visits to City Hall are suspended until further notice.
 To pay by cash or debit please make an appointment by calling 604-294-7934.



Bylaw Violation Notice

BYLAW VIOLATION NOTICE #: L200872

PLU: 1149-Lic Violation

ISSUED TO: Redacted as per FOIPPA Section 22

ISSUE DATE: April 18, 2019

ADDRESS: Redacted as per FOIPPA Section 22

BYLAW NAME: BBY UNSIGHTLY PREMISES BYLAW

SECTION: 2

DESCRIPTION OF CONTRAVENTION: L2073-PROPTY UNTIDY OR UNSIGHTLY

CONTRAVENTION DATE AND TIME: April 16, 2019 12:15 pm

CONTRAVENTION LOCATION: 4090 NITHSDALE ST

ASSOCIATED TICKETS: L200873

ISSUING OFFICER: 00521-GRIMM

PAYMENT:

| | | |
|-----------------------|---------------------|---------------|
| IF PAID ON OR BEFORE: | May 10, 2019 | 400.00 |
| IF PAID AFTER: | May 10, 2019 | 500.00 |

Option 1 - PAYMENT

(If you pay this ticket you CANNOT dispute it)

Payment by credit card will be charged a 1.75% non-refundable fee for credit card merchant fee recovery. Bylaw Number: 13640

Pay by Web: www.burnaby.ca/paytickets

Mailed or delivered to: City of Burnaby - Tax Office
Violation Payment
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Burnaby, BC V5G 1M2

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Pay in Person: Cash, Cheque, Visa, Mastercard, American Express, Interac

Due to the COVID-19 pandemic in-person visits to City Hall are suspended until further notice.
To pay by cash or debit please make an appointment by calling 604-294-7934.



Bylaw Violation Notice

BYLAW VIOLATION NOTICE #: L200873

PLU: 1149-Lic Violation

ISSUED TO: Redacted as per FOIPPA Section 22

ISSUE DATE: April 18, 2019

ADDRESS: Redacted as per FOIPPA Section 22

BYLAW NAME: BBY UNSIGHTLY PREMISES BYLAW

SECTION: 2

DESCRIPTION OF CONTRAVENTION: L2073-PROPTY UNTIDY OR UNSIGHTLY

CONTRAVENTION DATE AND TIME: April 16, 2019 12:15 pm

CONTRAVENTION LOCATION: 4090 NITHSDALE ST

ASSOCIATED TICKETS: L200872

ISSUING OFFICER: 00521-GRIMM

PAYMENT:

| | | |
|-----------------------|---------------------|---------------|
| IF PAID ON OR BEFORE: | May 10, 2019 | 400.00 |
| IF PAID AFTER: | May 10, 2019 | 500.00 |

Option 1 - PAYMENT

(If you pay this ticket you CANNOT dispute it)

Payment by credit card will be charged a 1.75% non-refundable fee for credit card merchant fee recovery. Bylaw Number: 13640

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Pay in Person: Cash, Cheque, Visa, Mastercard, American Express, Interac
 Due to the COVID-19 pandemic in-person visits to City Hall are suspended until further notice.
 To pay by cash or debit please make an appointment by calling 604-294-7934.

Attachment #4

4090 Nithsdale Street (September 9 2021)

