

THE CORPORATION OF THE DISTRICT OF SUMMERLAND

BYLAW NUMBER 96-047

A Bylaw to Regulate Noise Within the Corporation of the District of Summerland

WHEREAS, under the provisions of Section 932 (c) of the Municipal Act, being Chapter 290 of the Revised Statutes of British Columbia, 1979, the Council of a municipality is empowered to enact a bylaw to regulate or prohibit the making or causing of noises or sounds in or on a highway or elsewhere in the municipality which disturb, or tend to disturb, the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood, or of persons in the vicinity, or which in the opinion of the Council are objectionable or liable to disturb the quiet, peace, rest, enjoyment, comfort, convenience of individuals or the public, and may make different regulations or prohibitions for different areas of the municipality;

NOW THEREFORE, the Municipal Council of the Corporation of the District of Summerland in open meeting assembled, enacts as follows:

1. **DEFINITIONS**

- (a) Words defined in the "Motor Vehicle Act" being Chapter 288 of the Revised Statutes of British Columbia, 1979, and the "Municipal Act" being Chapter 290 of the Revised Statutes of British Columbia, 1979, shall have the same meaning when used in this bylaw unless defined in this bylaw or unless the context otherwise requires.
- (b) In this bylaw, unless the context otherwise requires:
- (i) **"Bylaw Enforcement Officer"** means the person or persons appointed from time to time by Municipal Council to enforce and administer this bylaw and shall include any Peace Officer;
 - (ii) **"Council"** means the Municipal Council of The Corporation of the District of Summerland;
 - (iii) **"District"** means the District of Summerland or the area within the boundaries thereof as the context may require;
 - (iv) **"Noise"** includes any loud outcry, clamour, shouting or movement, or any sound that is loud or harsh or undesirable;
 - (v) **"Noise Scare Device"** means any device that uses sound as a means of bird or pest control, and includes the devices referred to in section 3. of this Bylaw.
 - (v) **"Peace Officer"** shall have the same meaning as in the Interpretation Act being Chapter 206 of the Revised Statutes of British Columbia, 1979, plus the person or persons who are appointed to enforce and administer this bylaw;

- (vi) **"Person"** includes any company, corporation, owner, partnership, firm, association, society or party;
- (vii) **"Property"** means real property and includes land, other than highway, together with all improvements which have been so affixed to the land as to make them in fact and in law a part thereof.

2. **GENERAL REGULATIONS**

- (a) No person shall make or cause, or permit to be made or caused, any noise in or on a public or private place which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of any person or persons in the neighbourhood or vicinity.
- (b) No person being the owner, tenant or occupier of real property shall allow or permit such real property to be used so that noise or sound which occurs thereon or emanates therefrom, disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons on the same piece of property or in the neighbourhood or vicinity.
- (c) 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 in any public place in such a manner as to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in the vicinity.
- (d) No person shall own, keep or harbour any animal or bird which by its cries unduly disturbs the peace, quiet, rest or tranquility of the surrounding neighbourhood or the public at large.
- (e) No hawker, huckster, pedlar, news vendor, or other person shall by his intermittent or reiterated cries disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public.

3. **USE OF NOISE SCARE DEVICES ON AGRICULTURAL LANDS**

- (a) The provisions in this section apply to lands designated as agricultural land pursuant to the District's Zoning Bylaw and to lands designated as agricultural pursuant to the Agricultural Land Commission Act R.S.B.C. 1979, c. 9, as that Act may be amended from time to time.
- (b) A person may employ propane powered exploders, "AV-ALARM" systems, Phoenix Wailers, distress call systems, or similar noise scare devices to create noise or sound as a method of bird or pest control between one-half hour after sunrise and one-half hour before sunset.
- (c) A person may employ a starting pistol, orchard pistol, or similar noise scare device to create noise as a method of bird or pest control, except that such use shall not create noise that disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or people in the vicinity.
- (d) No person shall operate a propane powered exploder, "AV-ALARM" systems, phoenix wailer, distress call systems or similar noise scare devices to create noise

as a method of bird or pest control within 100 metres of an occupied dwelling that is not on the same parcel as the exploder except when such use shall not create noise that disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or people in the vicinity.

- (e) No more than one discharge per three minutes is permitted from any noise scare device.
- (f) No more than one propane powered exploder, "AV-ALARM", Phoenix Wailer, distress call systems may be used to produce noise on a parcel that is less than two hectares in area at one time.
- (g) On a parcel that is two hectares or more in area, no more than one propane exploder, and/or one distress call system may be used to produce noise for each two hectares of the area of the parcel at one time.

4. **CONSTRUCTION HOURS**

- (a) No person in the District shall on any day before 07:00 hours or after 22:00 hours, construct, erect, reconstruct, alter, repair or demolish any building, structure or thing or excavate or fill in land in any manner which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in the vicinity.
- (b) No person in the District shall for profit or gain on a Sunday construct, erect, reconstruct, alter, repair or demolish any building or thing, or excavate or fill in land in any manner which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in the vicinity.
- (c) Where it is impossible or impractical to comply with this Section, the Building Inspector may give written approval to carry on the work that is found to be necessary at designated hours. Responsibility for obtaining written approval lies with the person carrying on the work.

5. **OTHER**

- (a) No person shall operate any outdoor public address system in the District without first having obtained a permit.
- (b) No person shall operate a snow vehicle, motorboat or motorcycle which makes or causes excessive or undue noise.
- (c) Notwithstanding any provisions of this bylaw, a person may perform works of an emergency nature of the preservation or protection of life, health or property, but the onus shall be on the person performing the work to show cause that the work was of an emergency nature.

7. **EXCLUSIONS**

- (a) The provisions of this bylaw shall not apply to or be enforced against:
 - (i) An operator of agriculture machinery or equipment, which shall include tractors, sprayers and scare devices in the conduct of a farm operation being operated in accordance with normal farm practices;

- (ii) The Corporation of the District of Summerland, its employees or sub-contractors while engaged in works of an emergency nature, which shall include fire alarms, ambulance calls, repairs to municipal utility services, snow ploughing, sanding, snow removal, mechanical street sweeping.
- (iii) Any Police Officer in the discharge of his duties.
- (iv) Any Business or Industry established in accordance with the Municipality's Zoning Bylaw.
- (v) A lawnmower or power gardening equipment operated between 0700 hrs. and 2100 hrs. on any day.

8. **PENALTY SECTION**

- (a) Every person who violates any of the provisions of this bylaw or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this bylaw, who neglects to do or refrains from doing anything required to be done by any act which violates any of the provisions of this bylaw is guilty of an offence against this bylaw and liable to the penalties hereby imposed. Each day that a violation continues to exist shall constitute a separate offence.
- (b) Every person who commits an offence against this bylaw is liable to a fine and penalty of not more than \$2,000.00 for each offence, and in default of payment thereof, forthwith or within such time as the presiding Provincial Court Judge or Justice of the Peace shall direct, the fine imposed shall be recoverable under the provisions of the Offence Act, R.S.B.C. 1979, Chapter 305 and all amendments.

9. **REPEAL**

Bylaw Number 93-073 is hereby repealed.

10. This bylaw may be cited as the "Summerland Noise Control Bylaw Number 96-047".

READ A FIRST, SECOND AND THIRD TIMES this 28th day of October, 1996.

RECONSIDERED, FINALLY READ AND ADOPTED, signed by the Mayor and Clerk and sealed with the Corporate Seal, this 12th day of November 2, 1996.

Mayor

Corporate Officer