

DISTRICT OF LAKE COUNTRY

BYLAW 857, 2013

CONSOLIDATED VERSION
Includes amendment as of August 24, 2021)

This is a consolidated copy to be used for convenience only. Users are asked to refer to the Nuisance Bylaw as amended from time to time to verify accuracy and completeness.

Amending Bylaw	Summary of Amendments	Adoption
1104	Add section d) to 4.1 Exemptions	Nov. 5/19
1159	Delete & replace definitions Delete & replace Section 7	Aug. 24/21

DISTRICT OF LAKE COUNTRY**BYLAW 857**

**A BYLAW TO REGULATE AND PROHIBIT THE MAKING OR CAUSING OF NUISANCES
WITHIN THE MUNICIPAL BOUNDARIES OF THE DISTRICT OF LAKE COUNTRY**

WHEREAS Council may, by bylaw, regulate or prohibit the making or causing of noises or sounds that disturb or tend to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood, or of persons in the vicinity;

WHEREAS Council may, by bylaw, prevent, abate and prohibit nuisances, and provide for the recovery of the cost of abatement of nuisances from the person causing the nuisance or other persons described in the bylaw;

NOW THEREFORE the Council of the District of Lake Country, in open meeting assembled, enacts as follows:

1. INTERPRETATION

- 1.1. Any enactment referred to herein is a reference to an enactment of British Columbia and regulations thereto, as amended, revised, consolidated or replaced from time to time and any bylaw referred to herein is a reference to an enactment of the Council of the District of Lake Country, as amended, revised, consolidated or replaced from time to time.
- 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. In this bylaw the singular shall also include the plural, and the masculine shall also include the feminine.
- 1.4. 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 of this bylaw.

2. DEFINITIONS

“air” means the atmosphere but does not include the atmosphere inside a human-made enclosure that is not open to the weather, or an underground mine;

“bylaw enforcement officer” means the person appointed as the **Bylaw Enforcement Officer** for the District of Lake Country and includes any Peace Officer or member of the Royal Canadian Mounted Police;

“derelict vehicle” means any vehicle or part thereof, which:

- a) is physically wrecked, dilapidated or substantially damaged;
- b) is not capable of operating under its own power; or
- c) is not validly registered and licensed in accordance with the *Motor Vehicle Act*.

Amended by
Bylaw 1159

“Director” means the person appointed to the position of Director for the **District** of Lake Country, or their designate.

“District” means the organization of the **District** of Lake Country or the area within the municipal boundaries as the context may require;

“highway” includes every **highway** within the meaning of the *Highway Act* and every street, roadway, lane, bridge, boulevard, sidewalk, passage way, public-way, right-of-way and any other way which the public is ordinarily entitled or may be permitted to use;

“motorboat” means a boat or any vehicle used on water that is powered by an engine;

“nuisance” means anything that is obnoxious, offensive or interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses;

“nuisance odour” means an odour in the air that is obnoxious, offensive, or interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses;

“person” includes each natural **person**, any company, corporation, owner, 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;

“public space” means any property to which the public is ordinarily invited or permitted to be in or on, and includes but is not limited to, parks, grounds of public facilities or buildings, public parkades or parking lots, playgrounds, public squares, pathways, beaches, public areas adjacent to lakes or streams and foreshore;

“rubbish” means decaying or non-decaying solid and semi-solid wastes, including, but not limited to, all manner of garbage and junk, 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;

“unwholesome matter” means physical objects which are detrimental to the physical or mental well-being of **persons**.

3. GENERAL REGULATIONS

- 3.1. No **person** shall obstruct, interfere with, impede, hinder or prevent any person authorized by this bylaw, any employee of the **District**, or any other **person** engaged by the **District**, from performing any duties or exercising any authority under this bylaw.
- 3.2. Any **person** authorized by this bylaw shall have the right to enter upon the property of any owner or occupier 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 compliance with the provisions of this bylaw.

4. EXEMPTIONS

4.1. Notwithstanding the provisions of this bylaw, no person shall be guilty of an infraction of this bylaw while carrying out any of the following:

- a) normal farm practices conducted in accordance with the *Farm Practices Protection (Right to Farm) Act*;
- b) works of an emergency nature for 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;
- c) parades or public festivities authorized by the **District**;
- d) operating any vehicle or equipment of the Municipality, Fire Department, RCMP or any other public body engaged in carrying out a public service or carrying out work in or on a highway, park or Municipal property.

Added by
Bylaw 1104

5. NOISE REGULATIONS

- 5.1. No **person** shall make or cause, or permit to be made or caused, any noise in or on a **highway** or elsewhere in the **District** which disturbs or tends to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood, or of **persons** in the vicinity.
- 5.2. No **person** being the owner or occupier of property knowingly shall allow or permit such property to be used so that noise or sound which emanates therefrom, disturbs or tends to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood, or of **persons** in the vicinity.
- 5.3. 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 space** in such a manner as to disturb or tend to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood, or of **persons** in the vicinity.
- 5.4. No **persons** shall own, keep or harbour any animal or bird which by its barks, cries or sounds unduly disturb or tend to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood, or of **persons** in the vicinity.
- 5.5. No **person** in the **District** shall on any day before 7:00 a.m. or after 9:00 p.m. construct, erect, reconstruct, alter, repair or demolish any building, structure or thing or excavate or fill in land in any manner whatsoever which makes, causes noises or sounds in or on a **highway** or other **public space** or elsewhere in the **District** which disturbs or tends to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood, or of **persons** in the vicinity.
- 5.6. Where the **Bylaw Enforcement Officer** considers that it is impossible or impractical to comply with Section 5.5 of this bylaw, the **Bylaw Enforcement Officer** may, on application in writing, grant approval for a construction project 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 **Bylaw**

Enforcement Officer considers reasonable in the circumstances. The responsibility for obtaining written approval lies with the **person** carrying on the work.

- 5.7. Notwithstanding the provisions of Section 5 of this bylaw, industrial or commercial equipment sounds produced on an I zoned property within a closed building having perimeter walls constructed with a Sound Transmission Class Rating of at least 50 as provided for in the *B.C. Building Code*, shall not be considered to be a violation of this bylaw.
- 5.8. No **person** shall create a **nuisance** or disturbance upon any portion of a **highway** or other **public space** by participating in a fight or other similar physical confrontation between consenting or non-consenting **persons**.
- 5.9. No **person** shall cause any noise or sound from the operation of engine brakes on a commercial vehicle, that disturbs or tends to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood, except where a **person** is unable to safely slow down or stop by other means.
- 5.10. Where the **Bylaw Enforcement Officer or Director** considers that an event is in the public interest, the **Bylaw Enforcement Officer or Director**, may, on application in writing, grant approval for a special event, thereby waiving the provisions of Section 5 of this bylaw. The responsibility for obtaining written approval lies with the **person** responsible for the special event.

MOTORBOATS

- 5.11. No **person** shall launch a **motorboat** from any lands in the **District** if that **motorboat** 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 water unless the motor boat is equipped with a muffling device that ensures that the exhaust gases from the engine are cooled and expelled without excessive noise.
- 5.12. No **person** shall operate a **motorboat** in the **District** if that **motorboat** 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 water unless the **motorboat** is equipped with a muffling device that ensures that the exhaust gases from the engine are cooled and expelled without excessive noise.
- 5.13. No **person** shall operate any **motorboat** powered by an engine equipped with exhausting devices commonly described as dry stacks or dry headers.
- 5.14. No **person** shall operate a motor boat powered by an engine equipped with exhausting devices commonly described as water injected headers unless a properly operating muffler is installed thereto.
- 5.15. No **person** shall operate a **motorboat** powered by an engine equipped with exhausting devices commonly described as over-transom water cooled exhaust unless a properly operating muffler is installed thereto.

- 5.16. No **person** shall operate a **motorboat** so as to cause noise which disturbs or tends to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood, or of **persons** in the vicinity.

6. UNSIGHTLY PREMISES REGULATIONS

- 6.1. No owner or occupier of property shall cause, suffer or permit stagnant water, **rubbish**, noxious, offensive, or **unwholesome matter** to collect or accumulate on their premises.
- 6.2. Notwithstanding the provisions of Sections 6.1 of this bylaw, storage of **rubbish** is permitted on property provided that
- a) it does not create a fire hazard as determined by the **District** Fire Chief, and
 - b) it is kept within an accessory building, or
 - c) it is kept within an enclosed screened area no larger than 30 m² (323 sq ft). Each property may have one (1) enclosed screened area which must consist of a solid wood fence or evergreen landscaping 1.83 m (6 ft) in height.
- 6.3. No owner or occupier of property shall cause or permit a visual **nuisance** on their premises.
- 6.4. No owner or occupier of property shall allow their property to become or remain unsightly by accumulation of filth, **rubbish** or graffiti.
- 6.5. No **person** shall deposit or throw bottles, broken glass or other **rubbish** in any **public space**.
- 6.6. No **person** shall place graffiti on walls, fences or elsewhere on or adjacent to a **public space**.
- 6.7. Notwithstanding the provisions of Section 6 of this bylaw, outdoor storage of goods and chattels shall not be considered to be a violation of this bylaw when permitted by the **District** Zoning Bylaw.
- 6.8. No owner or occupier of property shall permit the storage of more than one (1) unlicensed vehicle on their premises.

PROPERTY LOCATED WITHIN THE AGRICULTURAL LAND RESERVE

- 6.9. Storage of waste and organic fertilizers is permitted on property located within the Agricultural Land Reserve being used for agriculture conducted in accordance with normal farm practices under the *Farm Practices Protection (Right to Farm) Act*.
- 6.10. Storage of machinery, farm vehicles, associated farm materials and two (2) unlicensed non-farm vehicles is permitted on property located within the Agricultural Land Reserve being used for agriculture conducted in accordance with normal farm practices under the *Farm Practices Protection (Right to Farm) Act*.

Section 7 deleted and replaced by Bylaw 1159

7. NUISANCE ODOUR AND NUISANCE LIGHTING REGULATIONS

- 7.1 A person, being the owner or occupier of property, shall not allow or permit such property to be used so that nuisance odours emanate therefrom which disturbs or tends to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood, or of persons in the vicinity.
- 7.2 A person, being the owner or occupier of property, shall not allow or permit light from an exterior source to be placed or lit in such a way that:
- (a) the light fixture casts light directly onto a window or other opening of a residential structure located across a street, or adjacent to, the real property;
 - (b) the light unreasonably disturbs the peace, rest, enjoyment, comfort or convenience of the owner or occupier of the neighbouring real property.

This shall not apply to exterior light emanating from streetlights, lights on playing fields and lights on school playgrounds.

8. PENALTIES

- 8.1. Any person who violates a provision 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 or who neglects to do or refrains from doing anything required to be done by any of the provisions of this bylaw, commits an offence and is liable on summary conviction to a penalty not exceeding Ten Thousand Dollars (\$10,000.00) plus the cost of prosecution.
- 8.2. Each day that the violation continues to exist shall constitute a separate offence.

9. ENFORCEMENT

- 9.1. Upon receipt of a complaint regarding violation of the regulations contained in this bylaw, the **Bylaw Enforcement Officer** is authorized to investigate the complaint and administer the requirements of the bylaw.
- 9.2. Where the **Bylaw Enforcement Officer** has received a complaint and the subsequent investigation verifies the complaint, the **Bylaw Enforcement Officer** may issue a written order requiring that the owner, occupier or other responsible person remedy the condition which gave rise to the complaint so as to bring the **nuisance** or property into compliance with the provisions of this bylaw, within such time as the **Bylaw Enforcement Officer** considers appropriate in the circumstances.
- 9.3. Where, after the expiry of 15 days from delivery of an order given pursuant to Section 9.2 of this bylaw, the condition which gave rise to the order has not been remedied, the **District**, through its officers, employees or agents may, at reasonable times and in a reasonable manner, without further notice, enter on the property and effect compliance with this bylaw at the expense of owner or occupier of the property.

- 9.4. If the compliance is carried out under Section 9.3 of this bylaw and the property occupier or owner does not pay the costs on or before December 31st in the year that the compliance was effected, the cost may be added to and form part of the taxes payable in respect of the said property as taxes in arrears. Such costs shall consist of all costs and expenses incurred by the **District** to achieve compliance with this bylaw including, without limitation, legal costs, administrative costs, cost to attend property by **District** employees or its contractors and the costs of removal, clean up and disposal.
- 9.5. An order or notice required to be given under this bylaw shall be sufficiently provided if it is served personally to the owner or occupier of the property, mailed by prepaid registered mail to the owner or occupier of the property as shown on the current year's real property assessment roll or the District has made all such reasonable efforts to deliver the order or notice to the owner or occupier of the property."

10. REPEALS

- 10.1. Regional District of Central Okanagan Noise Control Bylaw No.403, 1989 and all amendments thereto are hereby repealed.
- 10.2. Regional District of Central Okanagan Prohibition of Unsightly Premises Bylaw No. 433, 1990 and all amendments thereto are hereby repealed.
- 10.3. District of Lake Country Nuisance Odours Prohibition Bylaw 99-280 and all amendments thereto are hereby repealed.

CITATION

- 10.4. This Bylaw may be cited for all purposes as "Nuisance Bylaw 857, 2013."

READ A FIRST TIME this 19th day of March 2013.

READ A SECOND TIME this 19th day of March 2013.

READ A THIRD TIME this 19th day of March 2013.

THIRD READING RESCINDED this 16th day of April, 2013

READ A THIRD TIME AS AMENDED this 16th day of April, 2013.

ADOPTED this 5th day of May, 2013.

Original signed by James Baker

Mayor

Original signed by Reyna Seabrook

Corporate Officer

I hereby certify the foregoing to be a true and correct copy of "Nuisance Bylaw 857, 2013." as adopted by Municipal Council on the 5th day of May, 2013.

Dated at Lake Country, B. C.

Corporate Officer