

THE CORPORATION OF THE DISTRICT OF PEACHLAND

BYLAW NUMBER 1330

A BYLAW to Regulate and Prohibit the Making
or Causing of Noises and Sounds Within the
District of Peachland

WHEREAS under the provisions of the *Municipal Act Section 725*, 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 or convenience of individuals or the public, and may make different regulations or prohibitions for different areas of the municipality; and prevent or prohibit persons from shouting, using megaphones and making other noise in or at or on streets, wharves, docks, piers, boat launch ramps, or other public places;

NOW, THEREFORE, the Municipal Council of the Corporation of the District of Peachland, in Open Meeting, ENACTS AS FOLLOWS:

1. REPEAL

- 1.1 That Bylaw Number 940 and Amending Bylaw Numbers 1136 and 1156 attached thereto are hereby repealed.

2. DEFINITIONS

- 2.1 ***Words defined in the Motor Vehicle Act, as amended from time to time, and the Municipal Act, Revised Statutes of British Columbia, Chapter 323, 1996, shall have the same meaning when used in this bylaw unless defined in this bylaw or unless the context otherwise requires.***

- 2.2 In this bylaw, unless the context otherwise requires:

"Bylaw Enforcement Officer" means any person appointed by the Corporation of the District of Peachland or otherwise authorized under the Offence Act to administer and enforce this bylaw;

"Council" means the Municipal Council of the Corporation of the District of Peachland;

"Highway" includes a street, road, lane, bridge, viaduct, and any other way open to the use of the public but does not include a private right-of-way on private property;

"Motorboat" means a vessel which is propelled or capable of being propelled by an internal combustion engine upon water but does not include a vessel which is propelled by sails or oars;

"Noise" means any noise or sound that is objectionable, or disturbs, tends to disturb, or is liable to disturb, the quiet, peace, rest, enjoyment, comfort, or convenience of the area, or of persons in the area, or the public, and shall include, without limiting the generality of the foregoing, the noises and sounds specifically described elsewhere in this bylaw;

"Peace Officer" shall have the same meaning as in the *Interpretation Act*, being Chapter 206 of the Revised Statutes of British Columbia, 1979, and shall also include the person or persons who are appointed to enforce and administer this bylaw;

"Person" includes any company, corporation, owner, partnership, firm, association, society or party;

"Private Premises" means the area contained within the boundaries of any privately owned or leased lot, parcel of land, or foreshore lot within the District of Peachland and any building or structure situated within those boundaries, but where any lot or parcel contains more than one dwelling unit, each such dwelling unit shall be deemed to be separate private premises;

"Property" means land, with or without improvements, so affixed to the land as to make them in fact and in law a part of it;

"Public Place" means streets, highways, wharves, docks, piers, parks, public squares, beaches, foreshore, and all other lands and buildings that are not private premises.

3. GENERAL REGULATIONS

- 3.1 No person shall make or cause, or permit to be made or caused, any noise in or on a highway, street, park, beach, lakefront or elsewhere in the Municipality which disturbs the peace, rest, enjoyment, comfort or convenience of the neighbourhood, or of persons in the vicinity.

- 3.2 No person, being the owner or occupant of any private premises, shall:
- (a) cause, make, or participate in the causing or making of noise or continuous noise; or
 - (b) permit, allow, or suffer noise or continuous noise to be caused or made;

at the private premises owned or occupied by that person, in a manner that can easily be heard or otherwise perceived by an individual who is not at the same private premises, except as otherwise expressly provided by this bylaw.

Without restricting the generality of Section 3.2 above, a person who hears or otherwise perceives noise or continuous noise shall be deemed not to be at the private premises where the noise or continuous noise is being caused or made when that person is

- (a) at, or in immediate proximity to, any private premises other than the private premises from which the noise or continuous noise is emanating; or
 - (b) in a public place.
- 3.3 (i) No person shall use any real property within the Corporation of the District of Peachland acquired by purchase, lease or otherwise, or accepted, and held by the Corporation of the District of Peachland for pleasure, recreation or community uses of the public, for the purpose of launching therefrom a motor-boat into a body of water if that motor-boat 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 the water unless that motor-boat is equipped with a muffling device which ensures that the exhaust gases from the engine are cooled and expelled without excessive noise.
- (ii) No person shall use any highway within the Corporation of the District of Peachland for the purpose of launching therefrom a motor-boat into a body of water if that motor-boat 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 the water, unless that motor-boat is equipped with a muffling device which ensures that the exhaust gases from the engine are cooled and expelled without excessive noise.

- 3.4 No person shall use or operate a motor-boat within the Corporation of the District of Peachland if that motor-boat is equipped with an exhaust system that permits the exhaustive gases from the engine to be expelled directly into the air without first passing through the water, unless that motor-boat is equipped with a muffling device which ensures that the exhaust gases from the engine are cooled and expelled without excessive noise.
- 3.5 No person shall operate any motor-boat powered by an engine equipped with exhausting devices commonly described as dry stacks or dry headers.
- 3.6 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.
- 3.7 No person shall operate a motor-boat powered by an engine equipped with exhausting devices commonly described as over-transom water cooled exhaust unless a properly operating muffler is installed thereto.
- 3.8 No person shall use or operate a motor-boat with excessive noise which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of individuals in the public within the boundaries of the Corporation of the District of Peachland.
- 3.9 Notwithstanding anything contained in this Bylaw to the contrary, the Council may, by resolution, grant permission for a race or regatta to take place, and to exempt any motor-boat competing in such race or regatta from the provisions of this Bylaw.
- 3.10 Without limiting the prohibition contained in Section 3.1 above, the Municipal Council is of the opinion that the following noises or sounds created or made in the circumstances described, are objectionable or liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public and all persons are specifically prohibited from making or causing to be made the following noises or sounds:
 - (i) Noise or sound made or caused by the discharge into the air of the exhaust of any internal combustion engine except through a muffler or other device which effectively muffles noise therefrom;
 - (ii) Noise or sound made or caused by the sounding of a horn or other signalling device upon a motor vehicle as defined in the *Motor Vehicle Act*, except when sounded as a danger or warning signal;

- (iii) 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;
- (iv) Noise or sound made by excessive yelling, shouting, whistling or singing;

4. CONSTRUCTION HOURS

4.1 No person in the Municipality of Peachland shall on any day construct, erect, reconstruct, alter, repair or demolish any building, structure or thing or excavate or fill in land in any manner whatsoever which makes or causes noises or sounds in or on a highway or elsewhere in the Municipality of Peachland which disturb, or tend to disturb, the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood, or of persons in the vicinity, except during the following times:

- (i) Monday through Friday, between the hours of seven o'clock in the forenoon and nine o'clock in the afternoon;
- (ii) Saturday, between the hours of ten o'clock in the forenoon and nine o'clock in the afternoon;
- (iii) Sunday and other holidays, between the hours of ten o'clock in the forenoon and six o'clock in the afternoon.

4.2 The restriction contained in this part may be waived or varied by a Permit in writing from the Bylaw Enforcement Officer or the Municipal Clerk granting approval to carry on the work that is found to be a case of urgent necessity and in the interest of public health and safety.

5. OTHER

5.1 No person shall operate any outdoor public address system in the Municipality of Peachland without first having obtained a permit therefore.

- 5.2 Notwithstanding the provisions of this Bylaw, a person may perform 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.
- 5.3 Notwithstanding anything else in this Bylaw, upon receipt of an application in the form prescribed, authorized officials of the Corporation of the District of Peachland may permit grant specific exemptions from the applications of Section 4.1 of this Bylaw in respect of a particular event at a particular location, during the times and on the terms and conditions specified in the permit.

Where an event in respect of which a permit is issued produces noise or continuous noise in a manner that does not conform with the permit terms and conditions, the permit shall forthwith become null and void.

6. EXEMPTIONS

The provisions of this Bylaw shall not apply to or be enforced against:

- 6.1 Any motor vehicle or any other machine of the Corporation of the District of Peachland while engaged upon necessary public business.
- 6.2 Any motor vehicle under the control of the Fire Department, while responding to a fire alarm, or to any police officer or constable in the discharge of his duty, or to any licensed ambulance or to the use of any siren by the Fire or Police Departments, or in connection with the operation of an ambulance.
- 6.3 The use of bells or chimes for the announcing of church services of all kinds.
- 6.4 *Any business or industry established in accordance with the Corporation of the District of Peachland's Zoning Bylaw Number 1375, 1996, as amended or re-enacted from time to time, in any area designated as approved for that type of operation, provided that all precautions are taken according to the latest and most up-to-date scientific methods for abating, controlling or limiting noise, arising from the business or industry conducted, so that the same may be as free from neighbourhood offence as possible.*

7. OFFENCES AND PENALTIES

- 7.1 Any 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 of the provisions of this Bylaw, or who does any act which violates any offence against this Bylaw, is guilty of an offence against this Bylaw and is liable to the penalties imposed by this or any other Bylaw.
- 7.2 Each calendar day during which a person makes or causes any noise or sound in contravention of this Bylaw constitutes a separate offence.
- 7.3 Any person who commits an offence against this Bylaw is liable to a fine and penalty of not more than Five Hundred Dollars (\$500.00) and not less than Fifty Dollars (\$50.00) 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 thereto.

8. ENFORCEMENT

The Bylaw Enforcement Officer, or his designate, including a member of the Royal Canadian Mounted Police or other police force, shall be responsible for receiving and responding to complaints relating to noise and continuous noise, for investigating and prosecuting violations of this Bylaw, and for otherwise enforcing this Bylaw.

If a court of competent jurisdiction declares any section or part of any section of this Bylaw to be invalid or unenforceable, the remainder of the bylaw shall be considered to be valid and enforceable.

9. CITING

This Bylaw may be cited for all purposes as "Noise Abatement Bylaw Number 1330, 1995".

READ A FIRST TIME This 6th Day of June, 1995

READ A SECOND TIME This 6th Day of June, 1995

READ A THIRD TIME This 6th Day of June, 1995

FINALLY RECONSIDERED AND ADOPTED This 20th Day of June, 1995

Acting Mayor

Municipal Clerk

Dated at Peachland, B. C.
This 21st Day of June, 1995