

REGIONAL DISTRICT OF OKANAGAN-SIMILKAMEEN

BYLAW NO. 2931, 2022

A bylaw to regulate the making or causing of noises or sounds
in the Regional District of Okanagan-Similkameen

WHEREAS the *Local Government Act* authorizes the Regional District of Okanagan-Similkameen to regulate and prohibit, by bylaw, making or causing of noises or sounds;

AND WHEREAS the following bylaws have been adopted to establish the service for the regulation of making or causing of noises or sounds in Electoral Areas “C”, “D”, “E”, “F”, “H” & “I”:

- Electoral Area “C” Noise Control Regulatory Service Establishment Bylaw No. 2396, 2007;
- Electoral Area “D” Noise Control Extended Service Establishment Bylaw No. 1129, 1991;
- Electoral Area “E” Noise Control Regulatory Service Establishment Bylaw No. 2385, 2006;
- Electoral Area “F” Noise Control Extended Service Establishment Bylaw No. 1436, 1993; and
- Electoral Area “H” Noise Control Service Establishment Bylaw No. 2627, 2013.

NOW THEREFORE, the Board of the Regional District of Okanagan-Similkameen, in open meeting assembled, enacts as follows:

1.0 Title

This Bylaw shall be cited as the “Regional District of Okanagan-Similkameen Noise Control Bylaw No. 2931, 2022.”

2.0 Area

This bylaw applies to Electoral Areas “C”, “D”, “E”, “F”, “H” & “I” of the Regional District of Okanagan-Similkameen and as shown shaded green on Figure 1.

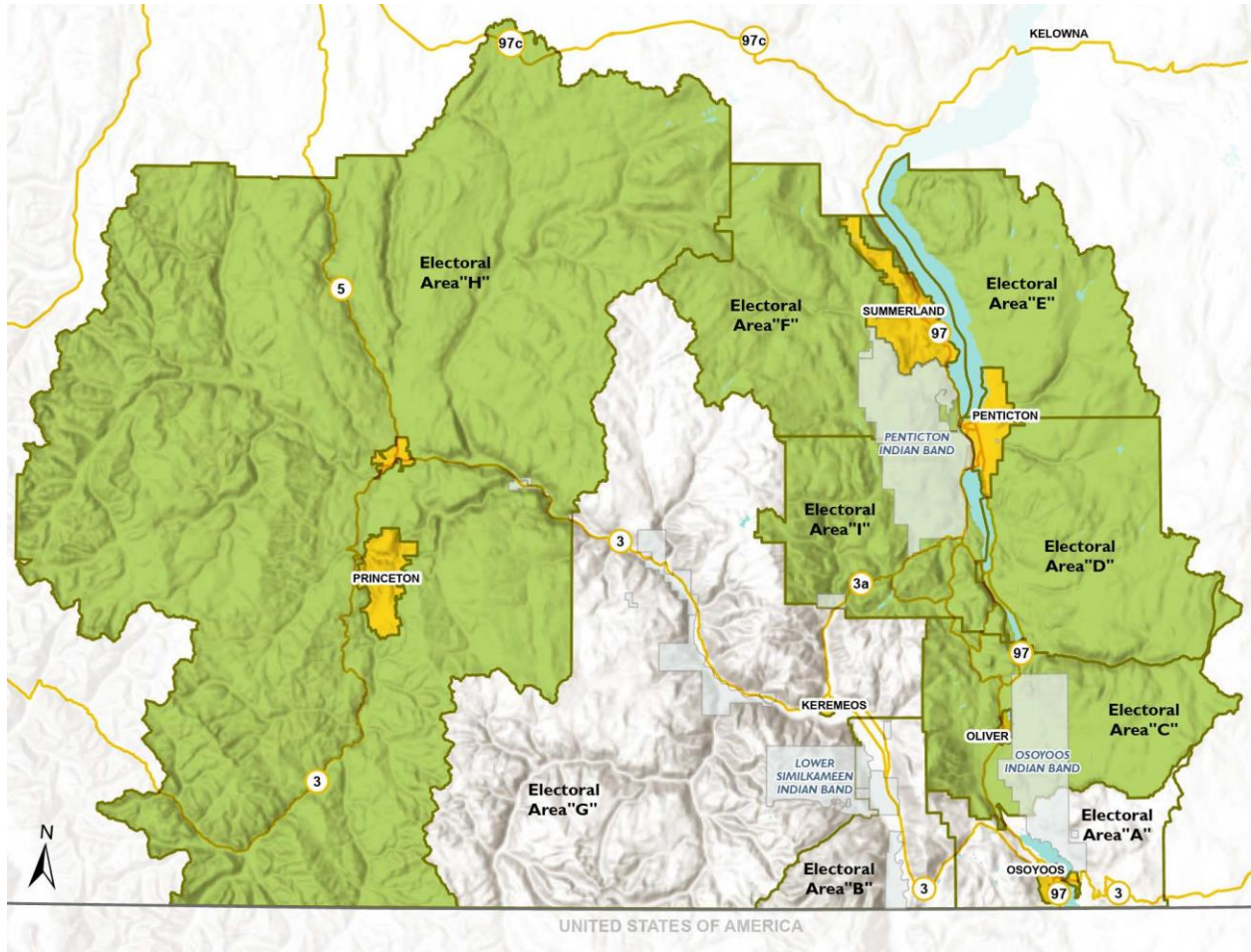


Figure 1: Context Map

3.0 Definitions

In this bylaw:

“Activity District” means those areas within an electoral area with a Commercial or Industrial zone established in the applicable electoral area zoning bylaw;

“Applicant” means a person submitting an *Application*;

“Application” means a request for an *Exemption*;

“Authorized Person” means the Chief Administrative Officer for the Regional District;

“Board” means the Board of Directors of the *Regional District*;

“Bylaw Enforcement Officer” means a person or persons appointed from time to time by the Board to enforce and administer this bylaw, or any Peace Officer;

“construction” includes:

- (a) the erection, alteration, repair, relocation, dismantling, demolition or removal of a building;
- (b) structural maintenance, power-washing, painting, land clearing, earth moving, earth compacting, grading, excavating, the laying of pipe and conduit (whether above or below ground), or road building and repair, concrete placement, or the installation or removal of construction equipment, components or materials in any form or for any purpose; or
- (c) any work being done in connection with any of the work listed in Paragraphs (a) or (b).

“Daytime” means:

- (a) from 7:00 a.m. to 10:00 p.m. on a week day or Saturday; and
- (b) from 10:00 a.m. to 10:00 p.m. on a Holiday.

“dB” means a decibel which is a unit of level which denotes the ratio between two quantities that are proportional to power, the number of decibels corresponding to the ratio of two amounts of power is 10 times the logarithm to the base 10 of this ratio;

“dBA” means the sound pressure level in decibels measured using the “A” weighting network setting;

“Exemption” means an exemption from the provisions of this Bylaw;

“Holiday” means:

- (a) Sunday, Christmas Day, Good Friday and Easter Monday;
- (b) Canada Day, Victoria Day, British Columbia Day, Labour Day, Remembrance Day, Family Day and New Year's Day;
- (c) December 26;
- (d) a day set by the Parliament of Canada or by the Legislature, or appointed by proclamation of the Governor General or the Lieutenant Governor, to be observed as a day of general prayer or mourning, a day of public rejoicing or thanksgiving, a day for celebrating the birthday of the reigning Sovereign, or as a public holiday; and
- (e) the day named in lieu of a day that is named in Paragraph (a) and that falls on a Saturday, Sunday or the following Monday.

“Leq” or equivalent continuous sound level, means that constant or steady Sound level, rounded to the nearest decibel, which, in a specified time period, conveys the same sound energy as does the actual time-varying sound level;

“Nighttime” means any time not included within the definition of *Daytime*;

“Peace Officer” means a police officer, police constable, constable or other person employed for the preservation and maintenance of the public peace;

“Person” includes a natural Person, a company, corporation, 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;

“Point of Reception” means a position that:

- (a) is within the property line of the real property occupied by the recipient of a noise or sound,
- (b) is located at least 1.2 metres above the surface of the ground, and
- (c) best represents the location at which the noise or sound, emanating from another property, is received and the resulting disturbance experienced; or
- (d) is within six metres outside of the real property from which the sound is emanating.

“Power Equipment” means any equipment or machinery used in lawn and garden care or in building and property maintenance, including but not limited to leaf blowers, edge trimmers, rototillers, lawn mowers, pressure washers, carpet cleaning equipment and hand-operated power tools;

“Premises” means:

- (a) the area contained within the boundaries of a legal parcel of land and any building situated within those boundaries, and
- (b) that each unit, the common areas of the building, and the land within the apparent boundaries of the lot are each separate Premises where a building contains more than one unit of commercial, industrial or residential occupancy.

“Quiet District” means those areas within an electoral area that are not otherwise zoned Commercial or Industrial in an applicable electoral area zoning bylaw;

“Real Property” means land, with or without improvements so affixed to the land as to make them in fact and in law a part of the real property;

“Regional District” means the Regional District of Okanagan-Similkameen;

“Representative Time Period (RTP)” means the measurement period over which a sample of the level or character of the noise or sound under consideration will be taken for the purposes of Section 6.0 (Permitted Sound Levels), according to the following categories of sound:

- (a) for constant sounds, such as, without limitation, those sounds produced by fixed-speed fans, heat pumps, pool pumps or other steadily-operating machinery, the RTP is one (1) minute;
- (b) for sounds that fluctuate in level or character in a repeatable fashion over periods of from three (3) seconds to one (1) minute, such as, without limitation, those sounds produced by industrial or manufacturing processes, the RTP is five (5) minutes;
- (c) for sounds that fluctuate in level or character in a repeatable fashion over periods of from one (1) to five (5) minutes, such as, without limitation, sounds produced by an air compressor or other cyclical noise sources, the RTP is 15 minutes;
- (d) for sounds that fluctuate in level and/or character in a repeatable fashion over periods of between five (5) and ten (10) minutes, the RTP is 30 minutes;
- (e) where several noise sources operate simultaneously, each with its own patterns of operation and or movement, such as, without limitation, in a shipyard or a recycling/materials-handling operation, the RTP is 30 minutes; and
- (f) for a noise source that exhibits significant variations in output over a time period of one (1) hour or more, the RTP is the period known to, or expected to, generate the maximum overall noise levels at the Point of Reception.

“Residential Premises” means any parcel of real property utilized primarily for residential accommodation, and includes hotels and motels.

4.0 Interpretation

- .1 Unless otherwise provided in this Bylaw, words and phrases used herein have the same meanings as in the *Community Charter, Local Government Act* and *Interpretation Act*.
- .2 Where an abbreviation or technical standard is used in this Bylaw but is not defined specifically or by context, it should be interpreted by reference to the definitions and technical standards published by the Canadian Standards Association (CSA), the American Standards Institute (ANSI), the International Organization for Standardization (ISO) or the International Electro-Technical Commission (IEC), as applicable.

5.0 Administration and Enforcement

- .1 The Bylaw Enforcement Officer is hereby authorized to enter at all reasonable times upon any property within the Regional District for the purpose of ascertaining whether the regulations under this Bylaw are being observed, or whether a requirement of the Regional District is being met.
- .2 No person shall prevent or obstruct, or attempt to prevent or obstruct, the Bylaw Enforcement Officer from the exercise or performance of his or her powers, duties or functions under this bylaw.

6.0 Permitted Sound Levels

- .1 A person must not make, cause or permit to be made or caused, any noise or sound over a Representative Time Period which during the *Daytime* or *Nighttime* exceeds the following:

NOISE SOURCE	NOISE RECEIVER			
	Quiet District		Activity District	
	Daytime	Nighttime	Daytime	Nighttime
Quiet District	55 dBA	45 dBA	60 dBA	60 dBA
Activity District	60 dBA	55 dBA	70 dBA	70 dBA

7.0 Disturbing Sound

- .1 Subject to the other provisions of this Bylaw, a person:
 - (a) must not make or cause a noise or *sound* in a road, park or similar public place which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of persons in the neighborhood or vicinity; and
 - (b) who is the owner or occupier of, or is in possession or control of, real property must not make, suffer, or permit any other person to make, a noise or *sound*, on that real property, which can be easily heard by a person not on the same *Premises*; and which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of persons in the neighbourhood or vicinity.
- .2 Subsection 7.1 does not apply if a noise or sound level may practically be measured and the noise or sound level is in compliance with this Bylaw.

8.0 Prohibited Types of Sound

- .1 Notwithstanding any other provision of this Bylaw, the following conduct is specifically prohibited:
 - (a) persistent shouting, using a megaphone or sound amplification device in, at or on, roads, parks, bus stations, or other public places, at such a volume as to

reasonably disturb, or tend to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of a *Person* or the public;

- (b) persistent shouting, using a megaphone or sound amplification device in, at or on, roads, parks, bus stations, or other public places, that is continuous or intermittent and which must reasonably disturb, or tend to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of the neighborhood, or of any person in the vicinity;
 - (c) the playing of any sound device such as a radio, phonograph, television, musical instrument, tape recorder, cassette player, CD player, MP3 player, DVD player, game, speaker system, audio system, sound amplifier, musical instrument or any other music or voice amplification equipment,, whether in or upon a private *Premises*, or in any public place, at such a volume as to reasonably disturb, or tend to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of a *Person* or the public; and
 - (d) the operation of any motor vehicle, truck, motorcycle, bus or other motorized vehicle which by reason of disrepair, mode of operation of the motor vehicle, over-revving of engine or excessive acceleration of a motor vehicle, or any other cause, creates noise or *sound* which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of a *Person* or the public.
- .2 Subsections (a) and (b) do not apply to a person who makes, causes, or permits to be made or caused, a noise or sound in compliance with the provisions of Section 6.0 (Permitted Sound Levels), unless the noise or sound is clearly audible at a *Point of Reception* in an area zoned Small Holdings, Low Density Residential and Medium Density Residential under the applicable zoning bylaw between the hours of 8:00 p.m. one day and 7:00 a.m. the following day.

9.0 Power Equipment

- .1 Despite any other provision of this Bylaw, a person may, when using or operating *Power Equipment* between the hours of 7:00 a.m. and 8:00 p.m., make or cause a sound that exceeds the sound level limits set out in Section 6.0 (Permitted Sound Levels) if the *Leq* does not exceed 75 dBA when received at the *Point of Reception*.

10.0 Construction

- .1 A person may make or cause sound resulting from *Construction*, the *Leq* which exceeds 55 dBA in a Quiet District only between the following days and times:

Day	Time
Monday – Saturday	7:00 am – 8:00 pm
Sundays and Statutory Holidays:	
Electoral Areas “C”, “D”, “F”, “H” & “I”	10:00 am – 5:00 pm

11.0 Exemptions

- .1 This Bylaw does not apply to:
 - a) an emergency services motor vehicle or other public service motor vehicle while engaged in a service of the public convenience or necessity;
 - b) the sounding of a horn or other signaling device upon any motor vehicle or boat where such sounding is properly and necessarily used as a danger or warning signal;
 - c) the use, in a reasonable manner, of an apparatus or mechanism for the amplification of the voice or music in a residential area, park or public facility in connection with a public meeting, public celebration, athletic or sports event or other public gathering, if the noise produced by that gathering does not exceed 90 dB when received at a *Point of Reception*.
 - d) the use of bells, chimes, or other calls to worship by religious institutions;
 - e) a parade, procession, performance, concert, ceremony, event, gathering or meeting in or on a road or public space;
 - f) maintenance and activities of a school district and their employees, agents and contractors;
 - g) a garbage collection service;
 - h) the construction, repair, maintenance or alteration of any public structure, facility or land, including park land, open space, roads or trails;
 - i) normal farm practices on a farm operation as defined by and protected by the *Farm Practices Protection (Right to Farm) Act*.

12.0 Application for Exemption

- .1 Aside from the exceptions set out in Section 11.0 (Exemptions), on application for temporary exemption, an *authorized person* may deny or grant consent, in writing, to carry on works or a given activity for a specified term that allows for an exemption to the general regulations of this Bylaw.
- .2 Other than for emergency works, the application mentioned in sub-section 14.1 shall be made in writing, and shall be submitted to the Regional District at least 14 days prior to the date of the proposed activity, and shall contain:
 - a) The name, address, email address and telephone number of the applicant;
 - b) the location and full description of proposed activity or development for which an exemption is being requested;

- c) the building permit number, if applicable;
 - d) a description of the source of sound for which an exemption is sought;
 - e) a statement of the particular provision or provisions of the bylaw from which exemption is sought;
 - f) the period of time; hours requested of duration not in excess of twenty-four hours, for which the exemption is sought;
 - g) the reasons why the exemption should be granted;
 - h) a statement of the steps, if any, planned or presently being taken to, mitigate the noise for which the exemption must be provided; and
 - i) a non-refundable application fee in accordance with the Fees and Charges Bylaw.
- .3 An *authorized person* will assess an Exemption application against the following criteria:
- a) whether it is impractical or unsafe to carry out the proposed works within the time restrictions specified in this bylaw (i.e. due to anticipated traffic volumes or interruptions causing undue hardship to local residents);
 - b) whether there are seasonal considerations that may impact the ability to carry out the proposed works (i.e. change in weather, loss of day light);
 - c) whether the proposed length of the exemption being sought excessive (i.e. will it be for the whole duration of a project or for a specific event during construction); and
 - d) what measures, if any, are being implemented to mitigate the anticipated noise or sound.
- .4 In any case where, because of an emergency or other unforeseen circumstance, an application for an exemption cannot be submitted within the time limit prescribed in this sub-section, the Board may waive that limitation.

13.0 Appeal of Decision

- .1 An applicant who has been denied a temporary exemption may apply to have the Board reconsider that decision in accordance with the following procedures:
- a) an application for reconsideration must be made within 30 days of the decision by notice in writing to the Board;
 - b) the applicant may address the Board in writing or in person concerning the request for reconsideration of the temporary exemption; and
 - c) the Board may deny the temporary exemption or may grant the temporary exemption with or without terms or conditions.

14.0 Penalty

- .1 Any person who violates any of the provisions of this Bylaw or who 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 provision of this bylaw commits an offence against this Bylaw and is subject to:
 - a) upon summary conviction, a fine not exceeding \$10,000 and the costs of prosecution or imprisonment for not more than six (6) months or both;
 - b) a penalty in accordance with the *Local Government Bylaw Notice Enforcement Act* and the RDOS Bylaw Notice Enforcement Bylaw if a bylaw notice is issued respecting the violation;
- .2 Each day a new violation of or failure to comply with any provisions of this Bylaw continues to exist shall constitute a separate offence.
- .3 Any penalty imposed pursuant to this Bylaw will be in addition to, and not in substitution for, any other penalty or remedy imposed pursuant to any other applicable statute, law or regulation.

15.0 Severability and Repeal

- .1 If any provision of this Bylaw is held to be invalid by a court of competent jurisdiction, the provision may be severed from this Bylaw and such invalidity shall not affect the validity of the remaining portions of this Bylaw.
- .2 The following noise regulation and prohibition bylaws are repealed:
 - a) Electoral Area "C" Noise Regulation and Prohibition Bylaw No. 2397, 2007;
 - b) Electoral Area "D" Noise Regulation and Prohibition Bylaw No. 1527, 1994;
 - c) Electoral Area "E" Noise Regulation and Prohibition Bylaw No. 2386, 2006;
 - d) Electoral Area "F" Noise Regulation and Prohibition Bylaw No. 1526, 1994; and
 - e) Electoral Area "H" Noise Regulation and Prohibition Bylaw No. 2628, 2013.

READ A FIRST, SECOND, AND THIRD TIME this _____ day of _____, 2022.

ADOPTED this _____ day of _____, 2022.

RDOS Board Chair

Corporate Officer