

REGIONAL DISTRICT OKANAGAN-SIMILKAMEEN

BYLAW NO. 2711, 2015

A bylaw to regulate the prevention, removal and ongoing control of infestations by noxious and destructive insects, or related pests.

WHEREAS the Board of the Regional District Okanagan-Similkameen has adopted Nuisance Control Service Establishment Bylaw No 2198, 2003 to establish a service within the entire boundary of the Regional District for the operation and control of a nuisance service;

AND WHEREAS the *Local Government Act* authorizes the Regional District of Okanagan-Similkameen to, by bylaw, regulate and prevent infestation by noxious or destructive insects and to clear the property of such insects;

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

1. CITATION

1.1 This Bylaw shall be cited as the “Regional District of Okanagan-Similkameen Noxious and Destructive Insect and Pest Control Bylaw”

2. DEFINITIONS

2.1 In this bylaw:

- a) “Agent” means a person representing the owner of real property located within the Regional District;
- b) “Board” means the Board of the Regional District of Okanagan-Similkameen;
- c) “Bylaw Enforcement Officer” means officers or employees or other persons acting in another capacity on behalf of the Regional District for the purpose of enforcement of one or more of its Bylaws.
- d) “Control the Infestation” means the procedure which are recognized by the applicable Ministry and the tree fruit, forest and/or horticulture industries as responsible methods of controlling specific pests such as application of an appropriate chemical or biological spray, direct removal of the noxious or destructive insects or pests, removal of host species or removal of host habitat;

- e) “Infestation or Infested” means the presence of populations of noxious or destructive insects or related pests in trees, bushes, plants or associated crops that have caused or are likely to cause significant damage to the trees, bushes, plants or associated crops;
- f) “Inspector” means the person or persons appointed by the Regional Board to enforce and carry out the provisions of the bylaw;
- g) “Noxious or Destructive Insects or Related Pests” means any insect or related pest requiring control as recommended by the BC Ministry of Agriculture, Pacific Agra-Food Research Station or Okanagan Kootenay Sterile Insect Release Board and identified to be a specific threat in the Okanagan-Similkameen, including but not limited to those listed in Schedule ‘A’ of this Bylaw;
- h) “Regional District” means the Regional District of Okanagan-Similkameen;
- i) “Service Area” means the boundaries of the Regional District of Okanagan-Similkameen in its entirety.

3. **ADMINISTRATION**

- 3.1 The owners and occupiers of all real property shall prevent any infestation on their property. If an infestation occurs, the owner, occupier or their agent shall clear the property of noxious or destructive insects and related pests by direct removal or by the lawful application of chemical or biological treatments.
- 3.2 The inspector may enter any real property located within the service area at any reasonable time concerning any matter under this Bylaw and may perform such reasonable tests, analysis, collection of leaf, wood, soil and fruit samples or other things as may be necessary to determine if an infestation exists.
- 3.3 Where real property is infested and the infestation is verified and confirmed by investigation, the inspector may issue an order to the owner, occupier, or agent of the real property requiring that all action be taken as prescribed to control the infestation within 72 hours from the date of service of the order.
- 3.4 An order made pursuant to Section 3.3 of this bylaw shall be deemed to be validly served by:
 - a. Personal delivery to the owner, occupier or agent of the real property;
 - b. Being mailed by regular mail or email addressed to the owner, occupier or agent of the real property, and by the posting of the order in a reasonably visible location on the real property.
- 3.5 Where after the expiry of 72 hours from the date of service of an order given pursuant to Section 3.3 of this Bylaw, an owner has not controlled an infestation, it shall be lawful for the Regional District of Okanagan-Similkameen by its employees or other authorized representatives to enter the real property and take all action necessary to control the infestation.

- 3.6 All costs incurred by the Regional District of Okanagan-Similkameen to control the infestation on real property shall be charged to the owner of the real property and if unpaid on the 31st day of December of any year, shall be added to and form part of the taxes payable in respect of such real property as taxes in arrears.
- 3.7 The Inspector or otherwise authorized representative of the Regional District is hereby authorized to enter, at all reasonable times, upon any property within the Regional District subject to the regulations of this bylaw, in order to ascertain whether such regulations are being obeyed.
- 3.8 No person shall prevent or obstruct, or attempt to prevent or obstruct, an Inspector or other authorized representative of the Regional District of Okanagan-Similkameen acting pursuant to this Bylaw.
- 3.9 The inspector is authorized to consult with owners or occupiers of real property in the service area concerning complaints about insects and related pests that are not currently included in the definition of noxious or destructive insects and pests contained in Schedule 'A' of this Bylaw.
- 3.10 Any person who violates or causes or allows to be caused a violation of a requirement of this Bylaw shall be guilty of an offence and shall be liable, upon conviction, to the penalties provided under the provisions of the Offence Act or to the penalties provided under the provisions of the Bylaw Notice Enforcement Act.
- 3.11 Should the Regional District pursue actions to secure compliance through the courts, each person is liable, upon summary conviction, to a fine not exceeding \$10,000 and the costs of prosecution.
- 3.12 Each day that a violation of any provision of this bylaw continues to exist is a separate offence against this bylaw.

4. INTERPRETATION

- 4.1 In the event that any section of this Bylaw is for any reason held invalid by a decision of a court of competent jurisdiction, the invalid section or sub-section shall be severed from and not affect the remaining provisions of this bylaw.
- 4.2 The headings given to the section and paragraphs in this Bylaw are for convenience of reference only. They do not form part of this Bylaw and will not be used in the interpretation of this Bylaw.
- 4.3 Any enactment referred to herein is a reference to an enactment of British Columbia and the regulation 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 Board, as amended, revised, consolidated, or replaced from time to time.

5. REPEAL

- 5.1 Regional District of Okanagan-Similkameen Revised Noxious Insect and Pest Infestation Control Bylaw No. 2070, 2001 is hereby repealed.

READ A FIRST, SECOND AND THIRD TIME this 5th day of November, 2015.

ADOPTED this 5th day of November, 2015.

RDOS Board Chair

Corporate Officer

SCHEDULE 'A'

Noxious or destructive insects and related pests

- Codling moth – *Cydia pomonella*
- Western cherry fruit fly – *Rhagoletis indifferens*
- Black cherry fruit fly – *Rhagoletis fausta*
- San Jose scale – *Quadraspidiotus perniciosus*
- European fruit scale – *Quadraspidiotus ostreaeformis*
- Peach Twig Borer – *Anarsia lineatella*
- Peach Tree Borer – *Synanthedon exitiosa*
- Pear psylla – *Cacopsylla pyricola* Foerster
- Fruittree leafroller – *Archips argyrospilus*
- European leafroller – *Archips rosanus*
- Obliquebanded leafroller – *Choristoneura rosaceana*
- Threelined leafroller – *Pandemis limitata*
- Apple-and-thorn skeletonizer – *Choreutis pariana*
- Apple mealybug – *Phenacoccus aceris*
- Apple ermine moth – *Yponomeuta malinella*
- Gypsy moth – *Lymantria dispar*
- Apple maggot – *Rhagoletis pomonella*
- Oriental fruit moth – *Grapholitha molesta*
- Cherry bark tortrix – *Enarmonia formosana*
- Cherry ermine moth – *Yponomeuta padellus*
- Eyespotted budmoth – *Spilonota ocellala*
- Spotted Wing Drosophila – *Drosophila suzukii*
- Apple Clear Wing Moth – *Synanthedon myopaeformis*