

**VILLAGE OF NAKUSP  
GOOD NEIGHBOUR BYLAW  
NO. 640, 2011**

**WHEREAS** Council wishes to regulate and reduce nuisances, disturbances and other objectionable activities and things that may occur on private or public property;

**AND WHEREAS** Council deems it necessary and desirable to regulate or prohibit the production of noises or sounds which may disturb the quiet, rest, enjoyment, comfort or convenience of the public;

**AND WHEREAS** the *Community Charter* provides that Council may, by bylaw, regulate, prohibit and impose requirements in relation to public places; trees; the protection and enhancement of the well-being of its community in relation to nuisances, disturbances, and other objectionable situations; public health; and buildings and other structures;

**NOW THEREFORE** Council, in open meeting assembled, enacts as follows:

**PART 1  
GENERAL**

**Citation**

1.1 This Bylaw may be cited as the "Good Neighbour Bylaw No. 640, 2011"

**Definitions**

1.2 In this Bylaw the following words have the following meanings:

**"Accumulation"** means a build up, growth or collection, either scattered, amassed or piled, existing at the time of inspection;

**"Boulevard"** means that portion of a highway located between the curb or shoulder lines of the lateral boundary lines of a roadway and the adjoining property, or between the curbs on median strips or islands, but does not include curbs, sidewalks, ditches or driveways;

**"Building Materials"** includes items used in the construction of structure or in landscaping, and includes, but is not limited to, lumber, windows, doors, fill, and soil;

**"Bylaw Enforcement Officer"** means the person or persons appointed by Council to enforce this Bylaw and includes a peace officer;

**"CAO"** means the Chief Administrative Officer or designate, for the Village of Nakusp;

**"Container"** includes a dumpster, rubbish can, rubbish bin or other receptacle designed, intended or used to hold rubbish, discarded materials and debris;

**"Derelict Vehicle"** means a vehicle or part thereof, which:

- (a) is physically wrecked or disabled;

- (b) is not capable of operation under its own power; or
- (c) does not have attached number plates for the current year pursuant to the *Motor Vehicle Act Regulations*.

**“Director of Operations”** means the manager of public works as duly appointed by the Village.

**“Graffiti”** means writing or pictures scratched, painted or drawn by any means on a wall, fence, building, structures of any kind, sidewalk or road, but does not include public art murals that may be approved by resolution of Council from time to time;

**“Grass”** means any of a large family (*Gramineae* or *Poaceae*) of monocotyledonous plants having narrow leaves, hollow stems, and clusters of very small, usually wind-pollinated, flowers;

**“Highway”** includes every street, road, land, boulevard, sidewalk, lane, bridge, viaduct open to public use.

**“Lane”** means a public thoroughfare or way which affords a secondary means of access to a lot at the side or rear;

**“Municipality”** means the Village of Nakusp;

**“Noise”** includes any loud outcry, clamour, shouting or any sound that is loud, harsh, abrasive or undesirable.

**“Occupier”** means any person in actual or apparent possession of real property under a lease, license or other agreement with an Owner;

**“Offensive Matter”** includes, but is not limited to, dead animals or animal parts, carrion, offal, human or animal body fluids, grease, restaurant waste, used cooking oils, and excrement.

**“Owner”** means any person who is the registered owner, or owner under agreement, of real property;

**“Peace Officer”** has the same meaning as in the *Interpretation Act*;

**“Public Place”** includes a highway;

**“Property”** means real property, and includes 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, and includes individual premises located on the real property;

**“Rubbish”** in addition to its common dictionary meaning and without limiting the generality of that meaning, includes decaying or non-decaying solid and semi-solid wastes, including, but not limited to, 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;

**“Street”** means any highway, roadway, sidewalk, boulevard, lane, place, parking lot or entrance way or right of way which the public is ordinarily entitled or may be permitted to use for the passage of vehicles or pedestrians, and includes a structure located in any of those areas;

**“Trees”** includes shrubs;

**“Unightly”**, in addition to its common dictionary meaning, and regardless of the condition of other properties in the neighbourhood, includes property having one or more of the following characteristics:

- (a) the storage, location or accumulation of offensive matter, rubbish, graffiti or discarded material that is visible from another property, a highway or other public place;
- (b) the untidy and disorganized storage, location or placement of building materials on a site where construction is not taking place, except where those building materials are not visible from another property, a highway or other public place;
- (c) vegetation that is not maintained and is characterized by uncontrolled growth or is damaged or dead, and that vegetation is visible from another property, a highway or other public place; or
- (d) any other similar conditions of disrepair, dilapidation, or deterioration.

**“Weed”** includes brush, trees, any plant designated as a noxious weed pursuant to the *Weed Control Act*, and other plant growth that is allowed to come to a state of causing, or about to cause a nuisance, and includes any vegetation where its root system, limbs, or shoots intrude into a lane, street or highway in a manner that may impact travel, construction, maintenance levels, safety, longevity or the aesthetics of the that lane.

### **Designation**

- 1.3 This Bylaw is designated as a bylaw that may be enforced by means of a municipal ticket information under the *Community Charter*.

### **Interpretation**

- 1.4 In this Bylaw a word importing the masculine gender includes the feminine or neuter, a word importing the singular includes the plural, and in each case, vice versa.
- 1.5 If a portion of this Bylaw is held invalid by a Court of competent jurisdiction, then the invalid portion must be severed and the remainder of this Bylaw is deemed to have been adopted without the severed portion.

**PART 2**  
**NUISANCES AND UNSIGHTLY PREMISES**

**Prohibitions**

- 2.1 No person shall create or cause a nuisance.
- 2.2 No person shall:
- (a) leave, scatter, dump or dispose of dead animals or animal parts, carrion, offal, human or animal body fluids, grease, restaurant waste, and used cooking oils, rubbish, paper, litter, cigarette butts, glass or any other material, either solid or liquid, in any public place;
  - (b) stamp, paint, post, affix or otherwise place or distribute any bill, poster, notice or advertisement on any public property without first having obtained written permission from the Municipality;
  - (c) expectorate, spit saliva, spit tobacco, spit chewing gum, or any other substance in any public place; or
  - (d) deface, injure or damage any property or equipment owned by or in the care of the Municipality in any public place.
- 2.3 No person shall urinate, defecate, deposit or void any urine or excrement in any location within the Municipality other than directly into a toilet which is:
- (a) connected to a municipal sanitary sewer system;
  - (b) connected to a septic disposal system approved by the Ministry of Health;
  - (c) a pit privy on a property larger than 0.8 hectares;
  - (d) a self-contained chemical toilet; or
  - (e) a recreational vehicle toilet connected to a holding tank.
- 2.4 No person shall:
- (a) place graffiti on private property, buildings or structures of any kind, including fences or streets on or adjacent to any public property;
  - (b) deposit or throw bottles, broken glass or other rubbish in any open place upon private or public property; or
  - (c) abandon a vehicle on a street or public right-of-way.
- 2.5 No owner or occupier of property shall cause, suffer, or permit a nuisance to exist on, or to originate from, their property.
- 2.6 No owner or occupier of property shall cause, suffer or permit:
- (a) water, rubbish, dead animals or animal parts, carrion, offal, human or animal body fluids, grease, restaurant waste, used cooking oils, other offensive or noxious substances, discarded material, or rubbish to collect or accumulate on

their property, or to overflow from, or accumulate around, any container located on the property;

- (b) the emission of offensive or malodorous odours from their property or any container located on the property;
  - (c) the property to become or remain unsightly;
  - (d) an accumulation of dead landscaping, brush, vegetation, weeds, or other growths on the property;
  - (e) where a building permit has been issued by the municipality with regard to the property, cause or permit demolition waste, construction waste or trade waste to accumulate on the property;
  - (f) infestations by caterpillars and other noxious or destructive insects;
  - (g) graffiti to remain on the property; or
  - (h) the storage or accumulation of one or more derelict vehicles unless they are stored in an enclosed building or structure.
- 2.7 No owner or occupier of property shall cause, suffer or permit water to collect or accumulate on that property in an open drain, watercourse, pond, swimming pool, hot tub or as surface water in a manner that may permit the breeding of mosquitoes or other harmful disease-bearing insects.

#### **Boulevard and Lane Maintenance**

- 2.8 Every owner or occupier of a property shall maintain the sidewalk, boulevard, or lane that is adjacent to their property and, without limiting the generality of the foregoing, shall:
- (a) remove accumulations of offensive matter, leaves, rubbish, discarded materials, hazardous objects or other materials that may obstruct a drainage facility;
  - (b) remove all offensive matter, leaves, rubbish, discarded materials, hazardous objects and materials from all boulevards and sidewalks;
  - (c) in keeping with the reasonable standard of maintenance in the area, keep grassed areas trimmed and irrigated and reasonably free of weeds;
  - (d) keep in good repair all driveway crossings;
  - (e) trim and maintain all trees and plantings.
- 2.9 Without limiting section 2.8, every owner or occupier of a property located in a commercial area, as defined in the *Zoning Bylaw 614, 2008* as amended, shall remove all accumulations of offensive matter, leaves, rubbish, discarded materials, and hazardous objects and materials from all sidewalks, boulevards, and lanes adjacent to their property no later than 10:00 a.m. each day.
- 2.10 No person shall deposit offensive matter, leaves, rubbish, discarded materials, or hazardous objects or materials removed from sidewalks, boulevards, lanes, or private property onto Municipal property or highways.

## **Exemptions**

- 2.11 Where a property contains two acres or more and is assessed as farm land, it shall not be considered as unsightly by reason of the accumulation of stored materials if those materials are incidental to the operation of a farm, provided that such materials are:
- (a) not placed or permitted to be stored less than 75 feet from any highway; and
  - (b) screened from view by a fence, hedge or other similar structure.
- 2.12 Where a property is used for industrial or commercial purposes and zoned for that purpose, and where the nature of the business carried on therein requires the accumulation of materials that could be considered discarded, but which are necessary for the operation of the said business, it shall not be considered to be unsightly by reason of such accumulation if such materials are stored within a screened area and are not visible from the outside of the property.
- 2.13 This Part does not apply to farm operations conducted in accordance with normal farm practices under the *Farm Practices Protection (Right to Farm) Act*

## **PART 3 NOISE**

### **General Prohibitions**

- 3.1 No person shall, on a highway or other public place in the Municipality, make or cause, or permit to be made or caused, any noise that disturbs, or tends to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity of that place.
- 3.2 No owner or occupier of a property shall allow noise or sound to occur or emanate from that property where the noise or sound disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person on the same property or in the neighbourhood or vicinity.

### **Specific Prohibitions**

- 3.3 Without limiting the generality of sections 3.1 and 3.2, no person may do the following in a manner that disturbs, or tends to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of any person in the Municipality:
- (a) 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 street or other public place;
  - (b) allow or permit property they own to be used by a person for playing or operating any radio or stereophonic equipment or other instrument or other apparatus for the production or amplification of sound;
  - (c) subject to section 3.5, own, keep or harbour any animal or bird which calls, cries, barks or makes other noises which are audible outside the property where the animal is kept;

- (d) subject to section 3.5, operate, or cause, suffer or permit the operation of, any motorized lawn-grooming, garden equipment or chainsaw in the Municipality before 7:00 a.m. or after 10:00 p.m. on Monday through Saturday, or before 9:00 a.m. or after 10:00 p.m. on Sundays.
- (e) subject to section 3.5, before 7:00 a.m. or after 8:00 p.m. on Monday through Saturday, or before 9:00 a.m. or after 8:00 p.m. on Sunday, construct, erect, reconstruct, alter, repair or demolish any building, structure or thing, or excavate or fill in land;
- (f) subject to section 3.5, before 7:00 a.m. or after 8:00 p.m. on Monday through Saturday, or before 9:00 a.m. or after 8:00 p.m. on Sunday, cause, permit or allow a person to construct, erect, reconstruct, alter, repair or demolish any building, structure or thing, or excavate or fill in land;
- (g) create a nuisance or disturbance upon any portion of a street or other public place by participating in a fight or other similar physical confrontation between consenting or non-consenting persons, or by yelling, shouting, profanely swearing or using indecent, obscene or grossly insulting language;
- (h) operate a snow vehicle, motorboat or motorcycle which makes or causes noise which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in that vicinity; or
- (i) operate a parked or stopped diesel vehicle or reefer between 10:00 p.m. and 7:00 a.m. in such a way that it produces noise for longer than 15 minutes.

### **Exemptions**

- 3.4 This Part does not apply to excavation, construction or infrastructure work, or the repair of bridges, streets, highways or lands by the Municipality or its agents.
- 3.5 Despite anything contained in this Bylaw, no person shall be guilty of an infraction of this Part while doing the following:
  - (a) operating Fire Department, Police, or Ambulance vehicles while in the execution of their duties;
  - (b) operating any motor vehicle, generator, machinery, public address system, or other apparatus or thing during an emergency or for a public purpose or in furtherance of the public interest including, without limiting the generality of the foregoing, snow removal, street and highway cleaning, water main and sewer main repairs and civil defence exercises;
  - (c) using a motor vehicle, boat, or train horn to warn of danger or a hazard;
  - (d) performing works of an emergency nature for the preservation or protection of life, health or property, provided that the onus shall be on the person performing the work to show cause that the work was of an emergency nature;
  - (e) lawfully carrying on a trade or industry at a commercial, industrial or light industrial zoned area, provided that the sound or noise in question does not

exceed the sound or noise common to such trade or industry when carried out in accordance with generally accepted industry standards and using equipment and facilities in good operating order;

- (f) the constructing, erecting, reconstructing, altering, repairing or demolishing of any building, structure or thing, or the excavating or filling in of land before 7:00 a.m. or after 8:00 p.m. on Monday through Saturday, or before 9:00 a.m. or after 8:00 p.m. on Sunday, if the Director of Operations has provided written approval to carry on that work at those times;
- (g) carrying out farm operations conducted in accordance with normal farm practices under the *Farm Practices Protection (Right to Farm) Act*; or
- (h) operating residential household equipment including, but not limited to, pool pump motors, air conditioning units, exhaust fans, hot tub pumps, provided that the sound or noise in question does not exceed the sound or noise generally common to such household equipment when in good operating order and being used in accordance with generally accepted standards;
- (i) participating in a parade that is proceeding lawfully under a street-use permit issued by the Municipality; or
- (j) announcing religious services or calls to prayer using chimes, bells, music, percussion or amplified human voices.

#### **PART 4 ENFORCEMENT AND OFFENCES**

4.1 Any person who:

- (a) violates any provision of this Bylaw, or does any act or thing which violates any provision of this Bylaw, or suffers or allows any other person to do any act or thing which violates any provision of this Bylaw;
- (b) neglects to do or refrains from doing anything required to be done by any provision of this Bylaw; or
- (c) fails to comply with an order, direction, or notice given under any provision of this Bylaw, or suffers or allows any other person to fail to comply with an order, direction, or notice given under any provision of this Bylaw

is guilty of an offence, which may be enforced by means of a ticket in the form prescribed in the *Community Charter* and the *Local Government Act*.

- 4.2 The Bylaw Enforcement Officer may, to the extent necessary to give effect to this bylaw, enter on to any property, at all reasonable times and subject to the regulations of Council, to determine whether the regulations and directions of this Bylaw are being observed.
- 4.3 No person shall obstruct or interfere with a Bylaw Enforcement Officer in the exercise of his or her duties.



## **Violation Notice**

- 4.4 A Bylaw Enforcement Officer who deems a property to be in violation of this Bylaw may:
- (a) serve a violation notice upon the owner of the property; or
  - (b) serve a Municipal Ticket Information upon the owner of the property.
- 4.5 A violation notice must be:
- (a) served personally or mailed by prepaid registered mail to the owner of the property as shown on the current year's property assessment roll; and
  - (b) either posted on the property or delivered or mailed by regular mail to the occupier of the property.
- 4.6 A violation notice must state:
- (a) the civic address of the subject property;
  - (b) the legal description of the subject property;
  - (c) the particulars of the unsightly nature of the property or other non-compliance with the Bylaw to be remedied;
  - (d) the time period in which the unsightly nature of the property or other non-compliance must be remedied; and
  - (e) the Municipality's remedial action(s) if the property remains unsightly after the time period given for compliance.
- 4.7 An owner who receives a violation notice shall comply with all requirements set out in a violation notice within 7 (seven) days of the date of receiving it.
- 4.8 Where a violation notice is personally served then it is deemed to have been served on the day it was delivered.
- 4.9 Where a violation notice is not personally served then it is deemed to have been served on the third day after mailing or posting.

## **Default**

- 4.10 If, within the time period specified in the violation notice, the requirements in the violation notice have not been complied with, then:
- (a) the Municipality, by its workers or others, may, at all reasonable times and in a reasonable manner, enter the property and bring about such compliance at a cost of the defaulting owner or other responsible person;
  - (b) any costs described in subsection (a) shall consist of all costs and expenses incurred by the Municipality to achieve compliance with this Bylaw including, and without limitation, administrative costs, costs to attend the property by Municipal employees or its contractors, and the cost of removal, clean up and disposal.

- (c) the CAO shall certify all costs incurred by the Municipality in performing any such obligations and such costs shall constitute a debt due and owing to the Municipality that is recoverable in any court of competent jurisdiction.
- (d) if the owner of a property defaults in paying to the Municipality the costs referred to in subsection (a) and the account remains unpaid on the last day in the calendar year in which the remedial work was done, then the cost shall be added to and form part of the municipal taxes payable in respect of the property as taxes in arrears.

### Appeal

- 4.11 A person who has been served with a violation notice may appeal to Council, by giving notice in writing to the Municipal Corporate Officer at least 72 hours prior to any deadline given in the violation notice to remedy, and Council must hear and determine the appeal by confirming, amending or rescinding the violation notice.

### Penalty

- 4.12 Every person who contravenes a provision of this Bylaw is guilty of an offence and is liable upon summary conviction to a fine not more than ten thousand (\$10,000.00) dollars.
- 4.13 Each day that a contravention of the provisions of this Bylaw exists or is permitted to exist shall constitute a separate offence.

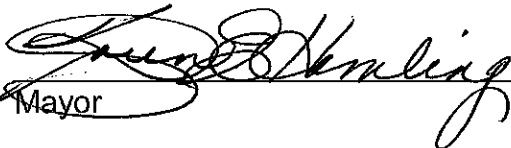
READ A FIRST TIME on November 8<sup>th</sup>, 2011

READ A SECOND TIME on November 8<sup>th</sup>, 2011

READ A THIRD TIME on November 12<sup>th</sup>, 2014

ADOPTED by the Council on November 13<sup>th</sup>, 2014

Deposited with the Minister of Health Services pursuant to the *Public Health Act, Community Charter and Public Health Bylaws Regulation* on the 19<sup>th</sup> day of November 2014.

  
Mayor

  
Corporate Officer