

This is a consolidated bylaw prepared by The Corporation of the City of Penticton for convenience only. The city does not warrant that the information contained in this consolidation is current. It is the responsibility of the person using this consolidation to ensure that it accurately reflects current bylaw provisions.

# **THE CORPORATION OF THE CITY OF PENTICTON**

## **NOISE AND NUISANCE BYLAW**

### **NO. 94-36**

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**THE CORPORATION OF THE CITY OF PENTICTON  
BYLAW NO. 94-36**

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**A BYLAW OF THE CORPORATION OF THE CITY OF  
PENTICTON TO PREVENT, ABATE AND PROHIBIT  
NUISANCES AND TO REGULATE AND PROHIBIT  
THE MAKING OR CAUSING OF NOISES**

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WHEREAS it is deemed advisable and expedient and in the public interest to enact legislation to prevent, abate and prohibit nuisances and to regulate or prohibit the making or causing of noises or sounds on any highway or elsewhere in the Municipality, which disturb or tend to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or persons in the vicinity, and to provide different regulations of prohibitions for different areas in the Municipality;

AND WHEREAS it is deemed advisable, expedient and in the public interest to enact legislation to prevent charivaries and other like disturbances of the peace;

THEREFORE the Municipal Council of The Corporation of the City of Penticton in open meeting assembled ENACTS as follows:

**PART 1 – DEFINITIONS**

1. The word “City” or “Corporation” wherever used in this bylaw shall mean The Corporation of the City of Penticton, or the total area lying within the corporate boundaries thereof, as the context may require.
2. The words “City Council” shall mean the duly elected and constituted City Council of The Corporation of the City of Penticton.
3. The words “disturbance of the peace” shall mean and include the disturbance of the quiet, rest, peace, enjoyment, comfort or convenience of individuals or the public.
4. The word “dog” shall mean any animal of the canine species and shall include bitch, male, neutered male and spayed bitch.
5. The words “motor boat” mean a vessel which is propelled by an internal combustion engine but does not include a vessel which is propelled by sail or oars and employs an auxiliary internal combustion engine, or a vessel which employs a diesel engine.
6. The words “motor vehicle” shall be as defined in the “Motor Vehicle Act”, RSBC 79 and amendments thereto.

7. The word “nuisance” shall mean a nuisance at law.
8. The word “person” shall be defined in the “Interpretation Act”, RSBC 79 and amendments thereto.
9. The word “street” or “highway” shall mean and include public places, highways, roads, lanes, alleys, avenues, thoroughfares, bridges, viaducts, squares, triangles, courts, courtyards, boulevards, sidewalks and rights-of-way open to the public.

## PART 2 – NUISANCES

1. No person shall do any act or thing, or permit or allow any act or thing to be done, or construct or erect any building or structure or thing, or permit or allow any building, structure or thing to be constructed or erected which is a nuisance or which causes or creates a nuisance.
2. No person shall permit or allow a dog to cause or create a nuisance or to be a nuisance.
3. (a) In addition to the penalties provided in this bylaw, every person found by a Court of competent jurisdiction to have permitted, allowed, caused or created a nuisance, shall forthwith abate such nuisance. If such nuisance is not abated within ten (10) days of the finding of such Court, it shall be lawful for the City to abate such nuisance without notice to such person, and by its servants, agents and workmen to enter such buildings and premises and onto such property as is necessary and to do such acts and things as are necessary for the abatement of the nuisance, at the expense of the said person who permitted, allowed, caused or created the nuisance, and the charges and expenses incurred by the City in abating the said nuisance shall be paid forthwith by such person, and if unpaid on the 31<sup>st</sup> day of December in any year, the City may, in addition to any other remedies, add the total amount of charges and expenses to the taxes payable by such person in respect of any real property within the City, and such shall thereafter form part of such taxes.
- (b) In addition to the provisions contained in paragraph 3(a) hereof, where a Court of competent jurisdiction has found that a person has permitted or allowed a dog to cause or create a nuisance or to be a nuisance, contrary to paragraph 3 hereof, such person shall forthwith abate such nuisance. If such nuisance is not abated within ten (10) days of the finding of such Court, it shall be lawful for the City, without notice to such person, and by its servants, agents and workmen, to enter such buildings and premises and onto such property as is necessary and to do such acts and things as are necessary to catch and apprehend the dog in question and at the expense of the person who permitted or allowed the dog to cause or create a nuisance or to be a nuisance, to cause to be destroyed such dog, and the provisions in paragraph 3(a) hereof relating to the expenses incurred by the City in so doing shall apply.

4. No person shall relieve oneself on a highway, sidewalk, boulevard or in any public place except those places so designated for such purposes.

### PART 3 – DISTURBANCE OF THE PEACE

No persons or groups of persons shall meet, assemble or gather together within the corporate limits of the City so as to cause a disturbance of the peace.

### PART 4 – NOISES AND SOUNDS

1. No person shall, within the corporate limits of the City of Penticton, operate, use or allow, permit or cause to be used or operated any bulldozer, grader, backhoe, power shovel, loader, crane, pile driver, pneumatic tools, jackhammer, concrete mixer, hammer or saw or any other equipment or construction activity that creates noise that tends to disturb between the hours of 10pm and 7am PROVIDED HOWEVER that nothing herein contained shall prohibit or prevent the issuance of a building permit pursuant to Division 5 of the *Municipal Act* RSBK 79 and amendments thereto and the City Building Bylaw and amendments thereto, stipulating that construction, erection, excavation, installation and other acts and things herein specified may be done between the hours of 10pm and 7am.”
2. No person shall make or cause any noise or sound on a highway or elsewhere within the corporate limits of the City which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in the vicinity.
3. No person shall drive or operate a motor vehicle within the corporate limits of the City so as to cause, or in a manner causing loud noise from the tires, or engine or exhaust of such motor vehicle.
4. The provisions of this part shall not apply to or be enforced against:
  - (a) any construction, building, demolition, excavation, grading or other kind of construction or destruction work undertaken with the written permission of the Chief Building Official or by a resolution of Council.
  - (b) Any business or industry carried on in those areas of the City designated as Light Industrial District (M1) or Heavy Industrial District (M2), pursuant to the provisions of the Penticton Zoning Bylaw and amendments thereto, with respect to noise that is reasonably or necessarily incidental to the business or industry, providing that the City Council may require that any such business or industry shall be conducted within a closed building or during the hours set out in Part 4, Section 1 hereof.
  - (c) Any agriculture carried on in those areas of the City designated as Agricultural District pursuant to the provisions of the Penticton Zoning Bylaw and

amendments thereto, with respect to noise that is reasonably or necessarily incidental to agriculture, providing that the City Council may require that any such agricultural activity shall be conducted within a closed building or during such hours or at such times as the City Council may designate.

- (d) Any use of equipment or vehicles in respect to noise that is incidental to the removal or clearing of snow and or ice.

#### PART 5 – OBJECTIONABLE NOISE BY MOTOR BOATS

1. No person shall launch a motor boat from any lands within The Corporation of the City of Penticton that are zoned PR (Parks and Recreation District) pursuant to the Penticton Zoning Bylaw and amendments thereto, 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 and 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.
2. No person shall use or operate a motor boat within The Corporation of the City of Penticton 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 and 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. 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 the neighbourhood or of the persons in the vicinity.
4. Notwithstanding anything contained in this bylaw to the contrary, Council may by resolution, grant a permit for a race or regatta and in such event any motor boat competing in such race or regatta may be exempted from provision of the bylaw.

#### PART 6 – EXEMPTIONS

City sanctioned activities and events are exempted from the provisions of this bylaw.

#### PART 7 – PENALTY AND ENACTMENT

##### 1. Penalty

Every person who offends against or violates any provision of this bylaw or who neglects to do or refrains from doing any of the things required to be done by the provisions of this bylaw shall be liable on summary conviction to a penalty not exceeding \$2,000 for each offence and in the case of a continuing offence, to a further penalty for each day during which the offence continues as provided by the Offence Act.

#### PART 8 – REPEAL

Bylaws 2445 and 3557 and amendments thereto are hereby repealed.

PART 9 – CITATION

This Bylaw may be cited and for all purposes be known as “the Penticton Nuisance and Noise Bylaw May 94-36 (1994)”.

READ A FIRST time this 16<sup>th</sup> day of May, 1994.  
READ A SECOND time this 16<sup>th</sup> day of May, 1994.  
READ A THIRD time this 16<sup>th</sup> day of May, 1994.  
RECONSIDERED and FINALLY PASSED and ADOPTED  
this 6<sup>th</sup> day of June, 1994.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Certified a true copy of Bylaw  
No. 94-36 as adopted.

\_\_\_\_\_  
City Clerk