

ADMINISTRATIVE REPORT



TO: Board of Directors
FROM: B. Newell, Chief Administrative Officer
DATE: September 22, 2022
RE: Noise Control Bylaw No. 2931, 2022

Administrative Recommendation:

THAT Bylaw No. 2931, 2022, a bylaw of the Regional District of Okanagan-Similkameen to introduce a Noise Control bylaw, be read a first, second and third time; and

THAT Bylaw No. 2507.14, 2022, a to amend the Bylaw Notice Enforcement Bylaw, be read a first, second and third time.

Purpose:

To introduce a new Noise Control Bylaw for Electoral Areas “C”, “D”, “E”, “F” & “I”. This bylaw would replace the existing and separate noise control bylaws that are currently in place for these same electoral areas.

Background:

Under Section 324 of the *Local Government Act*, the Board may, by bylaw, “regulate or prohibit the making or causing of noises or sounds in or on a highway or elsewhere in the regional district.”

At present, the Regional District has adopted Noise Control Bylaws for Electoral Areas “C”, “D”, “E”, “F” & “I” and, at the November 2021 Strategic Planning session, identified the review of these noise control bylaws as a corporate priority for 2022.

At its meeting of July 21, 2022, the Regional District Board resolved to remove Electoral Area “H” from the Noise Control Bylaw No. 2931, 2022, and further resolved to defer consideration of first reading “until questions regarding decibel levels can be answered.”

At its meeting of August 18, 2022, the P&D Committee resolved that the following amendments be made to Bylaw No. 2931:

- .1 new definitions of “motorsport facility” and “natural resource extraction” be added;*
- .2 a new exception be added allowing “natural resource extraction” uses to exceed specified noise levels to a maximum of 85 dBA, Monday to Friday between the hours of 7am to 5pm; and*
- .3 A new exception be added allowing a “motorsport facility” use to exceed specified noise levels to a maximum of 95 dBA, Monday to Friday between the hours of 10am to 9pm, and Sundays and Statutory Holidays between the hours of 10am and 10pm.*

At its meeting of September 1, 2022, the Board resolved to defer consideration of first reading so that consultation with the operators of the Penticton Speedway could occur.

Analysis:

The consolidation of the current existing noise control bylaws is seen to be a positive step that will allow for a more efficient administration of the regulations governing noise.

In addition, and further to the direction previously provided by the Board, the transition to an “objective” based bylaw that relies on the use of decibels (e.g. dBA) is anticipated to provide a more reliable and practical approach to enforcement.

A noise control bylaw based on decibels requires, amongst other things, the establishment of zones or districts based on use (e.g. commercial, industrial, residential and other), the definition of “day time” and “night time”, the establishment of maximum decibel levels, a differentiation between these based on zone/district and the establishment criteria for how sound measurements are to be taken.

In response, Bylaw No. 2931, is proposing that “daytime” be defined as 7am to 10pm Monday to Saturday and 10am to 10pm on a Sunday or Holiday, that a “quiet district” is anything other than a commercial or industrial zone (in a zoning bylaw) and that the maximum allowable decibel levels be as follows:

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

With regard to construction noise, it is proposed that this noise source be allowed to exceed stated decibel levels only between the hours of 7am and 8pm Monday to Saturday and 10am to 5pm on Sundays and Holidays (except in Electoral Area “E”, where the hours are 11am to 4pm on Sundays and Holidays).

Further to the direction provided at the August 18, 2022, meeting of the P&D Committee, the bylaw has also been updated to include provisions for “natural resource extraction” and “motorsport facility”.

Based upon discussions with the operators of the Penticton Speedway the proposed maximum decibel level for a motorsport facility has been increased from 95 dBA to 98 dBA, while the hours of operation that this decibel level applies to have been adjusted to 9:30 am seven days a week to 10:00 pm from Sunday to Thursday and 11:00 pm on Fridays, Saturdays and Statutory Holidays.

Finally, it is being proposed that the issuance of a short-term exemption from the requirements of the permit be delegated to Administration, that assessment of such requests take into consideration specified criteria (e.g. safety & seasonal considerations, length of request and proposed mitigation measures) and that a delegated decision be appealable to the Board.

The proposed amendments to the Bylaw Notice Enforcement Bylaw No. 2507, 2010, are intended to ensure administrative consistency of this bylaw with Bylaw No. 2931 (e.g. by introducing updated bylaw and section references).

Alternative:

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1. THAT the Regional District of Okanagan-Similkameen Noise Regulation Bylaw No. 2931, 2022, and Bylaw Notice Enforcement Amendment Bylaw No. 2507.14, 2022, not be read a first time.

Respectfully submitted:



C. Garrish, Planning Manager



M. Petry, Building & Bylaw Enforcement Manager