

**DISTRICT OF WEST KELOWNA
GOOD NEIGHBOUR BYLAW 0071, 2009**

CONSOLIDATED FOR CONVENIENCE

To include Bylaw No. 0071.01, 0071.02, 0071.03, 0071.04, 0071.05, 0071.06

TABLE OF CONTENTS

I	INTERPRETATION.....	1
II	GENERAL REGULATIONS.....	1
	BLASTING REGULATIONS.....	2
III	STREET NUISANCES.....	3
	Restrictions on Panhandling.....	3
IV	NOISE REGULATION.....	4
	Exemptions.....	4
	Special Exemptions.....	5
	General Prohibitions.....	6
	Specific Prohibitions.....	6
	Boat Noise.....	8
V	PROPERTY MAINTENANCE.....	8
	Private Property Maintenance.....	8
	Boulevard & Laneway Maintenance.....	9
	Snow Removal.....	10
	Compliance Orders.....	12
VI	NUISANCE	14
	SMOKE.....	
VII	ENFORCEMENT AND PENALTY.....	14
	Enforcement	14
	Penalty.....	14
	Repeat Nuisance Service Calls.....	15
	SCHEDULE "A"	17
	SCHEDULE "B"	19
	SCHEDULE "C"	20
	SCHEDULE "D"	21
	SCHEDULE "E"	23
	SCHEDULE "F".....	26

DISTRICT OF WEST KELOWNA

BYLAW NO. 0071

A BYLAW TO ENHANCE THE QUALITY OF LIFE FOR THE CITIZENS OF THE DISTRICT OF WEST KELOWNA

WHEREAS, the Council of the District of West Kelowna desires to protect Quality of Life for its citizens, and endeavors to promote civic responsibility, and further, strives to encourage good relationships between neighbours

THEREFORE BE IT RESOLVED that the Council of the District of West Kelowna in open meeting assembled, hereby ENACTS AS FOLLOWS:

This Bylaw may be cited as the “DISTRICT OF WEST KELOWNA GOOD NEIGHBOUR BYLAW 2009, NO. 0071.”

PART I - INTERPRETATION

1.1 Words or phrases defined in the British Columbia Interpretation Act, Motor Vehicle Act or Local Government Act or any successor legislation, shall have the same meaning when used in this Bylaw unless otherwise defined in this Bylaw.

Bylaw No. 0071.02, adopted November 23, 2010, deleted Section 1.2 in its entirety and replaced it with the following:

1.2 Schedules “A” – “D” contain definitions of terms used in this Bylaw.

1.3 In this Bylaw, unless the context otherwise requires, the singular shall include the plural and the masculine includes the feminine gender.

1.4 The headings contained in this Bylaw are for convenience only and are not to be construed as defining, or in any way limiting, the scope or the intent of the provisions of this Bylaw.

1.5 If any part of this Bylaw is for any reason held invalid by any court of competent jurisdiction, the invalid portion shall be severed and the severance shall not affect the validity of the remainder.

PART II – GENERAL REGULATIONS

2.1 No person shall obstruct or interfere with a bylaw enforcement officer in the exercise of his duties.

2.2 A bylaw enforcement officer shall have the right to enter upon the property of any owner or occupant at all reasonable times and in a reasonable manner for the purposes of inspecting property and declaring whether the property is unsightly or otherwise not in compliance with the provisions of this Bylaw.

BLASTING REGULATIONS:

Requirement for Blasting Permit

- 2.3 No owner of property shall blast or engage in blasting operations on that property, or allow blasting or allow blasting operations on that property, unless the owner is the holder of a Blasting Permit under this Bylaw.

Definition

- 2.4 For the purposes of this Bylaw, the term “blasting operations” includes preparing, placing and firing a charge, handling a misfire and destroying or disposing of explosive materials.

Permit Application Form

- 2.5 An owner of property may apply to the District for a Blasting Permit by completing an application in the form attached as Schedule “E” of this Bylaw and forming part of this Bylaw, and by submitting to the District, all the information required by the Schedule “E” application form.

Permit Fee

- 2.6 There is hereby imposed a fee of \$185.00 for issuance of each Blasting Permit, which fee is payable on the terms outlined in the Blasting Permit application form.

Permit Issuance

- 2.7 After:
- (a) an applicant for a Blasting Permit has paid the Blasting Permit fee and submitted a completed application for a Blasting Permit, with all information satisfactory to the Director of Engineering or the Director of Building and Regulatory Services; and
 - (b) either of those Directors has confirmed that the blasting would comply with this Bylaw and all other applicable bylaws of the District; and
 - (c) either of those Directors has confirmed that the blasting would comply with all municipal covenants, rights of way and other charges and interests affecting the property;

then either of those Directors may issue the Blasting Permit.

Refusal of Permit

- 2.8 If either the Director of Engineering or the Director of Building and Regulatory Services considers that the requirements of Section 2.7 are not satisfied, then either of the Directors may refuse to issue the Blasting Permit, but in that case, the applicant

may, by written request to the City Clerk, seek to have Council of the District reconsider the Directors' refusal to issue the Blasting Permit.

Commencement of Blasting

- 2.9 The holder of a Blasting Permit may not commence or allow blasting or blasting operations until such time as the holder of the Blasting Permit has given notification to the neighbourhood as required by the terms of the Blasting Permit and as required by the communications plan, as approved by the Director of Engineering or the Director of Building and Regulatory Services who issued the Blasting Permit.

Permit Duration

Bylaw No. 0071.04, adopted February 28, 2012, deleted Section 2.10 in its entirety and replaced it with the following:

- 2.10 The duration of a Blasting Permit shall be six months from the date of issuance of the Blasting Permit, subject to earlier suspension or revocation of the Blasting Permit. A Blasting Permit may not be renewed or extended.

Suspension and Revocation of Blasting Permit

- 2.11 The Director of Engineering or the Director of Building and Regulatory Services may, depending on his assessment of the seriousness of the situation, either suspend a Blasting Permit or revoke a Blasting Permit if the holder of the Blasting Permit is in contravention of the Blasting Permit.

If the Director of Engineering or the Director of Building and Regulatory Services lifts the suspension of a Blasting Permit before the expiry of the Blasting Permit, the one-month duration of the Blasting Permit will not be extended.

If the Director of Engineering or the Director of Building and Regulatory Services should suspend or revoke a Blasting Permit, the holder of the Blasting Permit may, by written request to the City Clerk, seek to have Council of the District, reconsider the suspension or revocation.

There will be no refund of the fee for the Blasting Permit in the event the Blasting Permit is suspended or revoked.

PART III – STREET NUISANCES

Restrictions on Panhandling

- 3.1 Schedule "B" contains definitions of terms used in Part III of this Bylaw.
- 3.2 No person shall panhandle within 10 metres of:
- (a) an entrance to a bank, credit union or trust company;
 - (b) an automated teller machine;
 - (c) a bus stop;
 - (d) a bus shelter; or

- (e) the entrance to any liquor store.
- 3.3 No person shall panhandle from an occupant of a motor vehicle which is:
- (a) parked;
 - (b) stopped at a traffic control signal; or
 - (c) standing temporarily for the purpose of loading or unloading.
- 3.4 No person shall panhandle after sunset on any given day.
- 3.5 No person shall sit or lie on a street for the purpose of panhandling.
- 3.6 No person shall continue to panhandle from a person, or follow a person, after that person has made a negative response.

Bylaw No. 0071.03, adopted January 10, 2012 added the following Sections to Part III:

- 3.7 No person shall apply graffiti on walls, fences or elsewhere on or adjacent to any park or public place.
- 3.8 No person shall possess drug paraphernalia used for the purposes of storing, transporting or using illegal drugs in any park or public place.

PART IV – NOISE REGULATIONS

Noise Restrictions:

- 4.1 Schedule “C” contains definitions of terms used in Part IV of this Bylaw.

Exemptions:

- 4.2 Notwithstanding anything contained herein, no person shall be guilty of an infraction of this Bylaw while:
- (a) operating or in charge of Fire Department, Police or Ambulance vehicles while in the execution of their duties;
 - (b) operating any motor vehicle, machinery 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, watermain and sewer main break repairs and civil defence exercises;
 - (c) 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;

- (d) lawfully carrying on a trade or industry at a commercial, industrial or light industrial zoned area, provided that the sound or noise therefrom does not exceed the sound or noise common to such trade or industry where carried out in accordance with generally accepted industry standards using equipment and facilities in good operating order;
- (e) farm operations conducted in accordance with normal farm practices under the *Farm Practices Protection (Right to Farm) Act*;
- (f) 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 therefrom does not exceed the sound or noise common to such household equipment when in good operating order and being used in accordance with generally accepted industry standards.

Special Exemptions

Bylaw No. 0071.02, adopted November 23, 2010, deleted Section 4.3(a) in its entirety and replaced it with the following:

4.3 (a) Construction and Blasting Permits:

Where the Director of Engineering or the Director of Building and Regulatory Services considers that it is impossible or impractical for a person to comply with Section 4.5 (e) and (f), the Director may, on application in writing, grant a construction permit or a blasting permit to carry out work that is found to be necessary, at designated hours on designated days and on such other terms and conditions as the Director considers reasonable in the circumstances;

(b) Mobile Public Address Systems:

No person may operate a mobile public address system without first obtaining a permit under this Bylaw and complying with the following terms and conditions:

- (i) upon application in writing, a permit may be granted by the District's Business Licence Inspector, or designate, for a mobile public address system, provided such system is used and operated, as follows:
 - the system may only be used between the hours of 9:00 a.m. and 6:00 p.m.;
 - the system must not be operated while the motor vehicle, trailer or other device containing the system is parked on a highway; and

- the system must not be operated more than once per day on any residential highway which has on either side of it an area zoned residential under the District's Zoning Bylaw;
 - the system must not be operated so as to cause a nuisance or other disturbance to any person.
- (iv) a permit for non-commercial purposes shall be for a stated period of days;
- (iv) no fee shall be payable for a non-commercial permit; and
- (iv) a permit fee of \$100.00 per day shall be payable for a commercial permit.

The District's Business Licence Inspector may cancel a licence for a mobile public address system if the licence holder fails to comply with the requirements and restrictions on use of the system established in this Bylaw, or otherwise causes a nuisance.

4.4 **General Prohibitions:**

- (a) No person shall make or cause, or permit to be made or caused, any noise in or on a highway or other public place in the District which 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;
- (b) No person being the owner, occupier or tenant of real property shall allow or permit such real property to be used so that noise or sound which occurs thereon or emanates there from, disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons on the same property or in the neighbourhood or vicinity of that property.

4.5 **Specific Prohibitions:**

Without limiting the generality of Section 4.4 herein:

- (a) No person shall 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 highway or other public place in such a manner as to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity of those premises or place;
- (b) No person being the owner, occupier or tenant of real property shall allow or permit his real property to be used by a person or persons for playing or operating any radio or stereophonic equipment or other instrument or other apparatus for the production or amplification of

sound in such a manner as to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity of said real property;

- (c) Subject to subsection 4.2 (e), no person shall own, keep or harbour any animal or bird which by its cries or sounds unduly disturbs the peace, quiet, rest or tranquility of the surrounding neighbourhood or of persons in the vicinity;
- (d) No person may operate, or cause, suffer or permit the operation of, any motorized lawn-grooming or garden equipment in the District between the hours of 2100 hours and 0700 hours;

Bylaw No. 0071.02, adopted November 23, 2010, deleted Section 4.5(e) in its entirety and replaced it with the following:

- (e) Subject to subsection 4.3(a), no person in the District shall, on any day before 0700 hours or after 2000 hours, construct, erect, reconstruct, alter, repair or demolish any building, structure or thing, blast or engage in blasting operations unless otherwise regulated in the Blasting Permit, excavate or fill in land in any manner which causes noise or sounds in or on a highway or elsewhere in the District which disturbs or tends to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity;

Bylaw No. 0071.02, adopted November 23, 2010, deleted Section 4.5(f) in its entirety and replaced it with the following:

- (f) Subject to subsection 4.3(a), no owner of real property shall, on any day before 0700 hours or after 2000 hours, cause, permit or allow a person to construct, erect, reconstruct, alter, repair or demolish any building, structure or thing, blast or engage in blasting operations unless otherwise regulated in the Blasting Permit, excavate or fill in land in any manner which causes noise or sounds in or on any real property, a highway or elsewhere in the District which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity;
- (g) No person shall create a nuisance or disturbance upon any portion of a highway or other public place by participating in a fight or other similar physical confrontation between consenting or non-consenting persons.

4.6 **Boat Noise:**

- (a) No person shall launch a motor boat from any lands in the District 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 without first passing through the water unless the boat motor is equipped with a muffling device that ensures the exhaust gases from the engine are cooled and expelled without excessive noise;
- (b) No person shall operate a motor boat in the District 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 without first passing through the water unless the boat motor is equipped with a muffling device that ensures the exhaust gases from the engine are cooled and expelled without excessive noise;
- (c) No person shall operate a motor boat powered by an engine equipped with the exhausting devices commonly described as dry stacks or dry headers;
- (d) No person shall operate a motor boat powered by an engine equipped with all exhausting devices commonly described as water injected headers unless a properly operating muffler is installed thereto;
- (e) No person shall operate a motor boat powered by an engine equipped with exhausting devices commonly described as over-transom water cooled exhaust unless a properly operating muffler is installed thereto; and
- (f) No person shall operate a motor boat so as to cause noise which disturbs the peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in the vicinity.

PART V - PROPERTY MAINTENANCE

PRIVATE PROPERTY MAINTENANCE

5.1 Schedule "D" contains definitions of terms used in Part V of this Bylaw

Exemptions

- 5.2 (a) Part V of this Bylaw does not apply to farm operations conducted in accordance with normal farm practices under the *Farm Practices Protection (Right to Farm) Act*.
- (b) Part V of this Bylaw does not apply to the orderly outdoor storage of goods and chattels when permitted by the District of West Kelowna Zoning Bylaw.

Regulations

- 5.3 Except as permitted under section 5.2 of this Bylaw, no owner or occupier of real property shall cause, suffer or permit:
- (a) water, rubbish, noxious, offensive, or unwholesome matter to collect or accumulate on the real property;
 - (b) rubbish to overflow from or accumulate around any container situate on the real property;
 - (c) allow the real property to become or remain unsightly;
 - (d) the accumulation of dead landscaping, vegetation, noxious weeds or other growths to occur or to remain on the real property; or
 - (e) in respect to real property for which a Building Permit has been issued by the District, cause or permit demolition waste, construction waste or trade waste to accumulate on the real property.

Bylaw No. 0071.01, adopted on September 15, 2009, removed Boulevard and Laneway Maintenance and Snow removal Regulations in their entirety and replaced them with the following:

Bylaw No. 0071.06, adopted on November 26, 2013, deleted Sections 5.4, 5.5, 5.6 and 5.7 in their entirety and replaced them with the following:

BOULEVARD & LANEWAY MAINTENANCE

Regulations

- 5.4 Every owner or occupier of real property shall maintain the sidewalk, boulevard, and land adjacent to their real property, and in particular, shall:
- (a) remove accumulations of filth, leaves, rubbish, discarded materials, hazardous objects and materials which obstruct a drainage facility;
 - (b) in keeping with the reasonable standard of maintenance in the area, keep grassed areas trimmed.
 - (c) keep in good repair, all driveway crossings;
 - (d) trim and maintain all plantings;
 - (e) remove all filth, leaves, rubbish, discarded materials, hazardous objects and materials from all boulevards and sidewalks.
- 5.5 As of the date of the adoption of this bylaw, hedges, rocks or gravel are not permitted to be placed on the boulevard adjacent to a roadway, curb or sidewalk, except:

- (a) gravel placed by District personnel on the boulevard for the purposes of drainage; or
- (b) where a sidewalk is present, gravel that is no larger than 2.5 cm in diameter may be placed between the sidewalk and an adjacent property line, provided that the gravel is at least 2.5 cm below the level of the sidewalk to prevent spillage onto the sidewalk; or
- (c) where a sidewalk is not present and a curb is located in the boulevard, gravel that is no larger than 2.5 cm in diameter may be placed between the curb and an adjacent property line, provided that the gravel is at least 2.5 cm below the level of the curb to prevent spillage onto the road.

SNOW REMOVAL

Regulations

5.6

- (a) Every owner or occupier of real property shall remove all snow and/or ice from the sidewalks and walkways bordering the real property owned or occupied by them within 24 hours of any accumulation of snow and/or ice. Notwithstanding this provision, owners or occupiers of real property bordering the following stretches of roadway and parks, as indicated in Schedule F attached to and forming part of this bylaw, shall be exempt from removing snow and ice from sidewalks along those stretches only:

SIDEWALKS EXEMPT FROM SECTION 5.6(a):

STREET NAME	FROM	TO	SIDE	METRES
Horizon Drive			N&E	378.1
Horizon Drive			N	505.0
Westlake Road	Starlight Crescent	Horizon Drive	E	961.2
Glenrosa Road	McGinnis Road	Gates Road	E	380.9
Shannon Lake Rd	Bridge	Golf Course Drive		1431.0
Industrial Road	Westlake Road	Stevens Road	W	96.6
Asquith Road	Shannon Lake	Saddleback Way		384.5
Asquith Road	Saddleback Way	Ironridge Road		552.2
Boucherie Road	Stuart Road	Hayman Road		1292.2
Boucherie Road	Hwy 97 N	to Stuart Road		160.4
Old Okanagan Hwy	Hwy 97 S (Main St)	Drought Road	E	74.3
Hwy 97 N (Dobbin)	Gellatly Road	Carrington Court		722.6
Hwy 97 S (Main St)	Gosset Road	Old Okanagan Hwy		233.3
Hwy 97 N (Dobbin)	Hebert Road	Elliot Road	S	189.0
Hwy 97 N (Dobbin)	Elliot Road	Brown Road	S	179.5
Hwy 97 N (Dobbin)	Brown Road	Hoskins Road	S	83.0
Hwy 97 N (Dobbin)	Hoskins Road	Old Okanagan Hwy	S	79.4
Paynter Road	Hwy 97 S (Main St)	2559 Delray Road		175.7
Hebert Road	Main Street	Churchill		47.6
Hebert Road	Churchill Road	Hwy 97 N (Dobbin)		45.3

STREET NAME	FROM	TO	SIDE	METRES
Hwy 97 N (Dobbin)	Hebert Road	Elliot Road	N	193.8
Hwy 97 N (Dobbin)	Elliot Road	Brown Road	N	185.4
Hwy 97 N (Dobbin)	Brown Road	Hoskins Road	N	82.4
Hwy 97 N (Dobbin)	Hoskins Road	Old Okanagan Hwy	N	82.6
Hwy 97 N (Dobbin)	Old Okanagan Hwy	RCMP	N	316.4
RCMP	Upstairs	Hwy 97 S (Main St)		35.3
Old Okanagan Hwy	Dobbin Road	Main Street	E	85.8
Hwy 97 S (Main St)	Old Okanagan Hwy	Hoskins Road	S	83.1
Hwy 97 S (Main St)	Hoskins Road	Brown Road	S	81.4
Brown Road	Dobbin Road	Main Street	E	88.2
Hoskins Road	Dobbin Road	Main Street	W	85.0
Hwy 97 S (Main St)	Old Okanagan Hwy	Hoskins Road	N	79.0
Hwy 97 S (Main St)	Hoskins Road	Brown Road	N	81.4
Old Okanagan Hwy	Dobbin Road	Main Street	W	88.3
Hoskins Road	Dobbin Road	Main Street	E	84.6
Hwy 97 S (Main St)	Brown Road	Elliot Road	S	183.4
Hwy 97 S (Main St)	Brown Road	Elliot Road	N	177.5
Hwy 97 S (Main St)	Elliot Road	Hebert Road	N	193.0
Hwy 97 S (Main St)	Elliot Road	Hebert Road	S	195.4
Elliot Road	Dobbin Road	Main Street	E	110.8
Elliot Road	Main Street	Churchill Road	W	49.2
Elliot Road	Churchill Road	Dobbin Road	W	48.0
Brown Road	Dobbin Road	Main Street	W	88.9
Gellatly Road South	4035 Gellatly Road	4140 Gellatly Road	E	474.9
Salmon Road	Stonegate Court	End of Sidewalk		233.7
Gellatly Road	Carrington Road Transit Stop	Witt Road		519.5
Mission Hill	Boucherie Road	1647 Mission Hill Rd		767.3
East Boundary	Vineyard Drive	3425 East Boundary	E	572.4
Vineyard Drive	Pinot Gris Drive	Pinot Noir Drive		351.3
Whitworth and Gellatly South	Gellatly Nut Farm	The Cove		412.5
Shannon Lake Road	Swite Road	2750 Shannon Lake Road		529.8
Sunview Drive	2217 Sunview Drive	2235 Sunview Drive		129.2
Horizon Drive	2160 Horizon Drive	2024 Horizon Drive		603.4
Peak Point Park				88.1
Moonbeam Park				37.4
Sunview Park				47.5
Rosewood Sportsfield				395.3
Rose Meadow Park				177.4
Pinot Noir Park				172.5
Vineyard Park				307.5
Jonagold Park				54.3
Chardonnay Walkway Park				70.9

STREET NAME	FROM	TO	SIDE	METRES
Shannon Way Park				383.6
Shannon Lake Trail				187.8
Stonegrove Park				157.9
Cobblestone Park				29.8
Wild Horse Park				216.7
Powerline Walkway				33.7
Deer Ridge Park				125.2
Shannon Woods Park				349.6
Gellatly Multiuse	The Cove	Angus Drive		645.4
Glen Abbey Park		Walnut Glen Drive		293.9
Majoros Pond	Witt Road	Majoros Road		125.1

- (b) An owner or occupier shall not use equipment which could cause damage to the boulevard, sidewalk or walkways due to excess weight of the equipment or sharp edges which could cause abrasions or scrapes to the sidewalk or boulevard.
- (c) Every owner or occupier of real property shall remove all snow and ice from the roof or other part of any structure on the property, where the location of that structure is such that it is reasonable to expect that the snow or ice on it may fall onto any sidewalk or highway, within 24 hours of the cessation of any snowfall or storm event that caused the accumulation.
- (d) No persons shall deposit snow, ice or other material removed from sidewalks, walkways, boulevards, lanes, or private property onto District property or highways.

COMPLIANCE ORDERS

- 5.8 If, in the opinion of the Bylaw Enforcement Officer, the owner of real property or other responsible person fails to comply with a requirement of this Bylaw, the Bylaw Enforcement Officer may issue an order requiring that the owner or other responsible person bring the real property into compliance with the provisions of this Bylaw within such time as the Bylaw Enforcement Officer considers appropriate in the circumstances.
- 5.9 Service of an order referred to in Section 5.8 will be sufficient if a copy of the order is:
 - (a) served personally or mailed by prepaid registered mail to the owner of the real property as shown on the current year's real property assessment roll; and;
 - (b) either posted on the real property or delivered or mailed by regular mail to the occupier of the real property.

5.10 Notice issued under section 5.8 herein must state:

- (a) the civic address of the subject real property;
- (b) the legal description of the subject real property;
- (c) the particulars of the unsightly nature of the real property or other non-compliance with this Bylaw to be remedied;
- (d) that the unsightly nature of the property or other non-compliance with this Bylaw must be remedied within 14 days of the date of delivery of the notice, or, in the case of snow, ice or rubbish on a sidewalk or footpath, within 24 hours from the time the snow, ice or rubbish is deposited thereon.
- (e) that if the owner or occupant fails to comply with the notice, the District may, without further notice, proceed to carry out the work required, and the cost of such work will be added to the taxes of the real property, and the owner or occupant or both may be subjected to prosecution for an offence under this Bylaw.

5.11 Notice issued under section 5.8 herein may give specific instructions to remedy the unsightly nature of the real property or other non-compliance with this Bylaw including, but not limited to, any one or more of the following directions:

- (a) remove unsightly accumulations of materials or rubbish from the real property;
- (b) remove snow, ice or rubbish from sidewalks and footpaths;
- (c) clean, stack or cover any material;
- (d) clear the real property of brush, trees, noxious weeds or other growths;
- (e) cut grass or weeds present on the real property;
- (f) prune trees or shrubs;
- (g) remove rubbish, or cut grass, weeds or other growth from adjacent boulevards or laneways;
- (h) otherwise remediate, maintain or repair the real property as specified in the notice, so as to bring it into compliance with this Bylaw.

5.12 If the owner of real property or other responsible person fails to comply with the Bylaw Enforcement Officer's compliance order within the time period specified in such notice, the District, by its workers or others, may at all reasonable times and in a reasonable manner, enter the real property and

bring about such compliance at the cost of the defaulting owner or other responsible person. Such costs shall consist of all costs and expenses incurred by the District to achieve compliance with this Bylaw including, without limitation, administrative costs, costs to attend property by District employees or its contractors and the costs of removal, clean up and disposal.

- 5.13 If an owner of real property or other responsible person defaults in paying the cost referred to in Section 5.12 to the District within 30 days after receipt of a demand for payment from the District, the District may either recover from the owner or other responsible person, in any court of competent jurisdiction, the cost as a debt due to the District, or direct that the amount of the cost be added to the real property tax roll as a charge imposed in respect of work or service provided to the real property of the owner, and be collected in the same manner as property taxes.
- 5.14 Service of a demand for payment referred to in Section 5.13 will be sufficient if a copy of the demand is served personally or mailed by regular mail to the owner of the real property as shown on the current year's real property assessment roll.

PART VI – NUISANCE SMOKE

For regulations regarding nuisance smoke – refer to the Regional District Smoke Control Regulatory Bylaw.

PART VII - ENFORCEMENT AND PENALTY

ENFORCEMENT

- 7.1 The provisions of this Bylaw may be enforced by any Bylaw Enforcement Officer.

PENALTY

Bylaw No. 0071.05, adopted September 4, 2012, deleted Section 7.2 in its entirety and replaced it with the following:

- 7.2 Every person who contravenes or violates any provision of this Bylaw, or who suffers or permits any act or thing to be done in contravention or in violation of any provision 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 and, upon conviction, shall be liable to a fine or penalty not less than \$100.00, and not exceeding \$10,000, and a jail term of not more than 6 months.
- 7.2.1 Where the offence is a continuing one, each day the offence continues shall be a separate offence.

REPEAT NUISANCE SERVICE CALLS

7.3 Where a member of the RCMP, a Bylaw Enforcement Officer, or other District official is required to respond to a real property for:

- (a) more than one nuisance service call within a twenty-four (24) hour period; or
- (b) more than three nuisance service calls within a twelve (12) month period;

the owner of the real property shall be liable to pay an excessive nuisance abatement fee in accordance with the District of West Kelowna Fees and Charges Bylaw - Schedule "10" - Bylaw Enforcement Fees and Fines.

7.4 Before imposing an excessive nuisance abatement fee, written notice shall first be provided to the owner of the real property:

- (a) describing in reasonable detail the nature of the nuisance conduct, activity or condition that occurred, or was maintained or permitted in, on or near the real property; and
- (b) advising the owner that excessive nuisance abatement fees will be imposed for each additional nuisance service call to the same real property and that the imposition of such fees is in addition to the District's right to seek other legal remedies or actions for abatement of the nuisance.

7.5 Excessive nuisance abatement fees shall be paid by the owner on receipt of an invoice from the District. If the amount of each invoice is not paid in full before the 31st day of December in the year received, on written notice to the owner, the amount shall be added to and form part of the taxes on the real property, as taxes in arrears.

7.6 An owner may, within 30 days of receipt of an invoice demanding payment of excessive nuisance abatement fees, require that Council reconsider the requirement to pay, or the amount of, the excessive nuisance abatement fees, at which time the owner of the real property shall have an opportunity to be heard by Council.

PASSED FIRST READING 2009-APR-14.
PASSED SECOND READING 2009-APR-14.
PASSED THIRD READING 2009-APR-14.
ADOPTED 2009-APR-28.

MAYOR

DIRECTOR OF CORPORATE SERVICES

SCHEDULE "A"

In this Bylaw:

"Bylaw Enforcement Officer" means the persons duly appointed by Council as such, and shall include any peace officer;

"District" means the District of West Kelowna or the area within the municipal boundaries as the context may require;

"Council" means the Council of the District of West Kelowna;

"Crossing" means any improvement that is constructed over a *boulevard* or sidewalk for the purpose of allowing vehicles or pedestrians to gain access between the highway and the land adjacent to the highway.

"Drainage Facility" includes boulevard drainage inlets, catch basins, grates, or culverts.

"Excessive Nuisance Abatement Fees" include, but are not limited to the following costs and expenses incurred while responding to a nuisance service call for the purpose of abating nuisance conduct, activity or condition:

- (1) the cost of police and District staff salaries, including all fringe benefits;
- (2) the cost of using police, fire and District equipment and vehicles;
- (3) the administration costs incurred by the District in responding to a nuisance service call and abating a nuisance; and
- (4) the cost of repairs to damaged District equipment, vehicles or property.

Bylaw No. 0071.03, adopted January 10, 2012 added 'school grounds' to the definition of "Highway or other public place" in Schedule "A" of the Bylaw.

"highway or other public place" includes every street, road, land, boulevard, sidewalk, lane, bridge, viaduct and any other way open to public use and any park, school grounds, building, conveyance, private place or passageway to which the public has, or is permitted to have access or is invited;

"motor boat" means a boat or any vehicle used on water that is powered by an engine;

“noxious weed” means any weed designated by regulation to be a noxious weed pursuant to the British Columbia *Weed Control Act*;

"nuisance" means anything that annoys or gives trouble, or that which is offensive, irritating or a pest to anyone residing within the District;

“nuisance service call” means a District or police response to and abatement of any nuisance or other activity, conduct or condition occurring on or near real property which substantially and unreasonably interferes with another person’s use and enjoyment of a public place or of real property occupied by that person, or which causes injury to the health, comfort or convenience of an occupier of real property and which is caused by or arises from a person’s failure to comply with the requirements of this Bylaw.

“peace officer” has the same meaning as in the British Columbia *Interpretation Act* and includes a bylaw enforcement officer;

“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;

“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, and includes, as the context requires, individual premises located on the real property;

"traffic control signal" means a traffic control signal as defined in the British Columbia *Motor Vehicle Act*.

SCHEDULE "B"

In Part III of this Bylaw:

"automated teller machine" means a device linked to a financial institution's account records which is able to carry out transactions, including, but not limited to, account transfers, deposits, withdrawals, balance inquiries, and mortgage and loan payments;

"bus stop" means a section of street which is reserved for the loading and unloading of buses and where parking and stopping of all other vehicles is prohibited;

"panhandle" means to beg for, or without consideration, ask for money, donations, goods or other things of value whether by spoken, written or printed word or bodily gesture for one's self or for any other person but does not include soliciting where approved by the District;

"street" means any highway, roadway, sidewalk, boulevard, place 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;

"traffic control signal" means a traffic control signal as defined in the *Motor Vehicle Act*, R.S.B.C., 1996 c. 318, as amended, from time to time;

"trust company" means an office or branch of a trust company to which the *Trust and Loans Companies Act* (Canada) applies and in which deposit accounts are held.

SCHEDULE "C"

In Part IV of this Bylaw:

"mobile public address system" means a public address system that can be used or is used while mounted on a motor vehicle, trailer or such other device transported or moved by human power;

"public address system" means a sound amplification system, either by megaphone or electronically, used outdoors to disseminate the spoken word and/or music to the public in general, and includes outdoor sound amplification systems used for purposes of a performance, concert, exhibition or entertainment, but does not include systems used for internal communications in schools and businesses.

SCHEDULE "D"

In Part V of this Bylaw:

"accumulation" means a build up, growth or collection, either scattered, amassed or piled, existing at the time of inspection.

"boulevard" means that portion of highway between the curb lines or the lateral boundary lines of a road way and the adjoining property or between the curbs on median strips or islands, but does not include curbs, sidewalks, ditches or driveways;

"lane" means a public thoroughfare or way which affords only a secondary means of access to a lot at the side or rear; and

"container" includes a dumpster, garbage can, garbage bin or other receptacle designed, intended or used to hold rubbish, discarded materials and debris.

"derelict vehicle" means any vehicle or part thereof, propelled otherwise than by muscle power which:

- (a) is physically wrecked or disabled;
- (b) is not capable of operating under its own power; and
- (c) does not have attached number plates for the current year pursuant to the regulations of the *Motor Vehicle Act* of the Province of British Columbia

"filth" means foul or putrid matter.

"grass" shall include plants that are commonly known or referred to as grass.

"offensive matter" means physical objects which are objectionable to the public,

"rubbish", in addition to its common dictionary meaning, shall include 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, place 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;

"unsightly", in addition to its common dictionary meaning and regardless of the condition of other properties in the neighbourhood, shall include property having any one or more of the following characteristics:

- (i) the storage, location or accumulation visible to a person standing on a public highway or on nearby property, or in a building or structure situate on a public highway or nearby property, of filth, rubbish, graffiti or any other discarded materials;
- (ii) the untidy storage, location or placement of building materials on a site where construction is not taking place, except where they cannot be seen from a public highway or from nearby property, or from a building or structure situate on a public highway or nearby property;
- (iii) landscaping or vegetation that is dead or characterized by uncontrolled growth or lack of maintenance, or is damaged;
- (iv) any other similar conditions of disrepair, dilapidation, or deterioration.

"unwholesome matter" means physical objects which are detrimental to the physical or mental well being of persons.

"weed" means and shall include brush, trees, noxious weeds and other growth that is allowed to come to a state of causing, or about to cause, a nuisance and any vegetation that may by its root system, limbs, shoots or leaves intrude into a lane in a manner that may impact travel, construction, maintenance levels, longevity or esthetics of the said lane.



SCHEDULE "E"

DISTRICT OF WEST KELOWNA

2760 Cameron Rd, West Kelowna, BC V1Z 2T6
Phone: (778)797-8820, Fax: (778)797-1001

Blasting Permit Application No.: _____
[to be completed by the District]

APPLICATION FOR BLASTING PERMIT

Applicant(s) for Blasting Permit - Registered Owner(s) of land on which blasting will occur:

_____ [full names of all registered owners – include incorporation number if a company]

[the "Owner"]

BLASTING SITE ADDRESS: _____

BLASTING SITE LEGAL: Lot _____ Plan _____ District Lot _____

DATES AND TIMES OF BLASTING _____

PURPOSE OF BLASTING: _____

<u>OWNER(S) - NAME & ADDRESS</u>	<u>BLASTING COMPANY - NAME & ADDRESS</u>
_____	_____
_____	_____
_____	_____
CONTACT NUMBERS: (Cell, Phone, Fax, E-mail)	CONTACT NUMBERS: (Cell, Phone, Fax, E-mail)

Provide confirmation of the following:

This application for a Blasting Permit will not be considered complete unless it is accompanied by all of the following information, and the information is satisfactory to the District.

- Copy of a valid Business Licence issued to the Blaster by the District of West Kelowna
- Site plan of area within 300 meters where blasting will occur
- Commercial General Liability insurance covering the blasting site and all operations related to the blasting work, and contact information of the insurance company
- Name of the independent company which will carry out a vibration and air over pressure monitoring
- A communication plan for the area located within 300 meters from edge of the blast, by which owners and occupiers within this area will be advised of the following:
 - description and purpose of the blasting to be done;
 - dates on which blasting will occur;

- times when blasting will occur;
- methods intended to safeguard persons and property, including plan of vibration and air over pressure monitoring;
- signals and other warning methods to be used to inform those nearby of an impending blast;
- name, telephone number, cellular telephone number and email address of the blaster;
- name, address, and telephone number of the blaster's insurer.

Information of any proposed road closures, detours, etc.

PERMIT CONDITIONS:

The permit holder is responsible for complying and ensuring compliance with all conditions of the Blasting Permit, as well as any other applicable federal, provincial or municipal bylaws, enactments, codes, regulations, or standards relating to the blasting in respect of which the Blasting Permit is issued, whether or not the blasting is undertaken by me or by those whom he may retain or employ to provide the blasting.

Blasting under the Blasting Permit is not permitted until such time as the permit holder completes notification under the approved communications plan.

The Blasting Permit will expire six months from the date of issuance.

The holder of the Blasting Permit will be required to spray water from a water truck to reduce dust in the air.

Acknowledgements of Permit Applicant

I acknowledge that I am solely responsible for determining whether the blasting work authorized by the Blasting permit would contravene any private covenant, easement, right of way, building scheme or other private restriction affecting the blasting site.

I acknowledge that the District of West Kelowna provides a limited service in relation to blasting and does not, by issuing any Blasting Permit, make any representation or give any assurance that the blasting authorized by the Blasting Permit complies with any applicable laws, including laws respecting safety.

I understand that I am encouraged to seek independent legal advice in respect of the responsibilities I am assuming upon the granting of a Blasting Permit by the District pursuant to this application and in respect of the execution of these acknowledgements.

NOTE:

The personal information on this form is collected under the authority of the *Local Government Act/Community Charter* for the purposes of processing this application, and is subject to the *Freedom of Information and Protection of Privacy Act*. Any questions regarding this collection should be directed to the Corporate Services Department, District of West Kelowna, phone (778)797-8897.

Name of Owner
[please print]

Signature of Owner or Authorized Agent

Date

OWNER'S AUTHORIZATION OF AGENT

The Owner hereby authorizes _____
[name, incorporation number if a corporation, address, telephone number, cell number,
email address – if applicable]

[the "Agent"]

To:

1. Apply for and obtain a Blasting Permit from the District of West Kelowna in respect of the land owned by me and identified in this application form;
2. Provide to the District as my agent, all information and documents required for this application;
3. Execute and deliver to the District, as my agent, this application form for a Blasting Permit.

I acknowledge that despite this authorization of an agent, I am solely responsible for carrying out the work authorized by the Blasting Permit in strict compliance with the terms of the Blasting Permit.

Signature of Registered Owner or
Authorized Signatory of Corporate Owner

Date of Authorization

Name of Registered Owner [please print]

ACKNOWLEDGEMENT OF OWNER'S AGENT

In executing this acknowledgement as the agent of the owner, I represent to the District of West Kelowna that I am authorized by the owner to apply for and received the Blasting Permit.

Signature of Authorized Agent

Date of Application

Name of Authorized Agent [please print]

Permit Issued by

Date

OFFICE USE ONLY:

ZONING: _____ DEV. PERMIT# _____ BUILDING PERMIT#: _____ SUBDIVISION FILE # _____

ENGINEERING DPT APPROVAL: _____ BUILDING & REGULATORY SERVICES APPROVAL: _____

APPLICATION FEE: \$ 185.00 PAID: _____ DATE: _____

