

## DISTRICT OF ELKFORD

### Good Neighbour Bylaw No. 871, 2022

---

*A bylaw to establish community standards and regulate public nuisances on privately owned property.*

---

WHEREAS the *Community Charter, SBC 2003, Chapter 26, Section 8*, empowers Council, by bylaw, to regulate, prohibit and impose requirements in relation to public places and the protection and enhancement of the well-being of its community in relation to nuisances, disturbances and other objectionable situations;

AND WHEREAS the Council of the District of Elkford deems it necessary and appropriate to enact the following regulations to establish standards and regulations for community appearance and behaviour;

NOW THEREFORE, the Council of the District of Elkford in open meeting assembled enacts as follows:

#### 1. TITLE

This bylaw may be cited as “Good Neighbour Bylaw No. 871, 2022”.

#### 2. DEFINITIONS

In this bylaw:

**BOULEVARD** means that portion of a dedicated road between the curb lines, the lateral lines or the shoulder of a road and the adjacent Property line but excludes public sidewalks.

**BYLAW ENFORCEMENT OFFICER** means a person appointed by Council pursuant to Section 264 (1)(b) of the Community Charter for the purposes of enforcing the bylaws of the District of Elkford.

**BUILDING** means a Structure which is designed, erected or intended for the support, enclosure or protection of persons or Property.

**DERELICT VEHICLE** means a Motor Vehicle, , that:

- (a) is not capable of being moved under its own power; or
- (b) is reduced to parts, frames, or bodies of a Motor Vehicle

and excludes a Motor Vehicle stored or kept completely within an enclosed building

**DILAPIDATED** means in a state of disrepair or ruin as a result of age, neglect or disuse.

**DIRECTOR** means the Director of Engineering and Public Works of the District, the Director of Planning and Development Services of the District, or their designate(s).

**DISTRICT** means the District of Elkford.

**FENCE** means a Structure, wall or hedge used as an enclosure or screening around all or part of a parcel of land.

**GRASSES or GRASS** means any plant of the family Gramineae, having jointed stems, sheathing leaves, and seedlike grains, but excludes Ornamental Grasses.

**GRAFFITI** means writing or drawings scribbled, scratched, or sprayed without lawful authority on a wall or other surface on Property.

**HIGHWAY** means a street, road, lane, bridge, viaduct, and any other way open to public use, and includes a roadway, Boulevard and sidewalk.

**MOTOR VEHICLE** means a motor vehicle as defined by the *Motor Vehicle Act, RSBC 1996, C. 318*, and any amendments or replacement thereof.

**NOISE** means a level of sound which disturbs the quiet, peace, rest, enjoyment, comfort, or convenience of an individual or group of individuals in the vicinity of the area in which the sound is created.

**NOXIOUS WEEDS** shall have the same meaning as defined by the *Weed Control Regulation, B.C. Reg. 143/2011*, as such may be amended from time.

**NUISANCE** means an activity which substantially and unreasonably interferes with a person's use and enjoyment of a Highway, park, or other Public Place or of Property, or which causes injury to the health, comfort or convenience of an owner or Occupier of Property and, without limiting the generality of the foregoing, includes, but is not limited to, Noise, production of noxious or offensive odors, littering and entering of premises in circumstances proscribed by S. 4 of the *Trespass Act, [RSBC 7996] c. 462*.

**OCCUPIER** means a tenant, licensee or other person who occupies or is in physical possession of Property or who has control over who is allowed to enter Property, other than a Public Place.

**ORNAMENTAL GRASS** means a plant of the family Gramineae, having jointed stems, sheathing leaves, and seedlike grains that is intentionally planted in strip or clump formation for its visual appeal, rather than for a lawn.

**OVER-WATERING** means the irrigation of a lawn, Grasses, trees or shrubs such that the soil of the Property ceases to absorb water and water pools on the Property or flows onto a Highway or adjacent Property.

**PROPERTY** means real property, and shall include, but is not limited to, the exterior of a Building, Structure or Fence located on real property.

**PUBLIC PLACE** means a road, square, lane, bridge, Highway, walkway, park, greenbelt, trail, Boulevard, District-owned building or facility, or other place to which the public has access by right or invitation, whether express or implied.

**REFUSE** includes but is not limited to:

- (a) Liquid and solid waste, discarded and disused materials, rubbish and litter;
- (b) Refrigerators, washing machines, televisions, dryers, and other household appliances and their parts;
- (c) Combustibles such as paper, cardboard, fabric, and plastic;
- (d) Indoor furniture, household goods, and indoor carpets;

- (e) Construction waste;
- (f) Unlicensed, unused, or stripped Vehicles, trailers, boats, vessels, machinery, mechanical parts and metal parts;
- (g) Grass cuttings, shrubbery, tree pruning, unmarketable food and garden waste;
- (h) Any of the above stored in garbage bags located outside of a Structure.

**STRUCTURE** means anything constructed or erected, the use of which requires location on or under the ground or water or attachment to something having location on or under the ground or water.

**UNSIGHTLY** means a Property that displays any one or more of the following characteristics to such an extent that as a whole it appears unkempt, unmaintained, Dilapidated or in disrepair:

- (a) the accumulation of Refuse, discarded or recyclable materials, appliances, machinery, equipment, Derelict Vehicles, or automotive parts;
- (b) the accumulation of building materials which are not required for a valid and subsisting Building Permit;
- (c) fencing materials that are broken, rotting, contain holes or cracks, or are rusted or paint has substantially peeled;
- (d) dead shrubs or trees;
- (e) a Building or other Structure that contains holes, breaks, rot or surfaces that are crumbling or cracking, or are substantially rusted or the paint has substantially peeled; or
- (f) broken windows in a Building or other Structure

**VEHICLE** means a vehicle as defined by the Motor Vehicle Act, RSBC 1996, C. 318, and any amendments or replacement thereof.

### 3. GENERAL

3.1. This Bylaw may be enforced by:

- (a) persons appointed by Council as a Bylaw Enforcement Officer;
- (b) the Director;
- (c) the Chief Administrative Officer;
- (d) Members of the R.C.M.P.

by means of a ticket in the form prescribed for that purpose by the *Community Charter* and as defined in the Municipal Ticket Information Bylaw, by remedial action requirement pursuant to section 72 of the *Community Charter*, and by other means as described in section 12 of this Bylaw.

3.2. Pursuant to section 16 of the *Community Charter* and this paragraph, a Bylaw Enforcement Officer may enter on any Property to inspect and determine whether the regulations, prohibitions and requirements of this Bylaw are being met. Except in the case of an emergency, a Bylaw Enforcement Officer:

- (a) may only exercise the authority at reasonable times and in a reasonable manner, and
- (b) must take reasonable steps to advise the owner or occupier before entering the property.

- 3.3. The authority described in section 3.2 above may only be used to enter into a place that is occupied as a private dwelling if any of the following applies:
- (a) the occupier consents;
  - (b) the District has given the occupier at least 72 hours' written notice of the entry and the reasons for it;
  - (c) the entry is made under the authority of a warrant under the *Community Charter* or another Act; or
  - (d) the person exercising the authority has reasonable grounds for believing that failure to enter may result in a significant risk to the health or safety of the occupier or other persons.
- 3.4. The provisions of this Bylaw apply to all persons or Property within the District of Elkford, excepting as may be specifically exempted pursuant to the provisions of this Bylaw.
- 3.5. The provisions of this Bylaw do not apply to:
- (a) Work carried out by employees, contractors or agents of the District;
  - (b) Work on a public utility carried out by the owner or operator of a public utility or its contractors; and
  - (c) Any activities within the sole jurisdiction of the Government of Canada or the Province of British Columbia.

#### **4. UNSIGHTLY PROPERTY**

- 4.1. No owner or Occupier shall cause or permit their Property to become or remain Unsightly to such an extent that as a whole it appears unkempt, unmaintained, Dilapidated or in disrepair, including:
- (a) the accumulation of Refuse, discarded or recyclable materials, appliances, machinery, equipment, Derelict Vehicles, or automotive parts;
  - (b) the accumulation of building materials which are not required for a valid and subsisting Building Permit;
  - (c) fencing materials that are broken, rotting, contain holes or cracks, or are rusted or paint has substantially peeled;
  - (d) dead shrubs or trees;
  - (e) a Building, Structure, or exterior landing, deck or stairs that contains holes, breaks, rot or surfaces that are crumbling or cracking, or are substantially rusted or the paint has substantially peeled; or
  - (f) broken windows in a Building or other Structure.
- 4.2. No owner or Occupier of Property shall permit or cause water to collect or accumulate in an open drain or as surface water in which mosquitos may breed.
- 4.3. An owner or Occupier of Property shall not permit or allow Dilapidated, collapsed or unfinished Structures or Buildings to remain on their Property for any period in excess of 90 days, except when pursuant to a valid and subsisting Building Permit issued pursuant to the Building Bylaw No. 748 2013, as amended or replaced from time to time.

4.4. No person shall vandalize, cause damage or place Graffiti upon any Public Place.

## **5. PLANTS AND VEGETATION**

5.1. No owner or Occupier of a Property shall permit any weeds or Grasses to be in excess of 20.32 cm (8 inches) in height except during the months of April and May in each year.

5.2. No owner or Occupier of Property shall permit Noxious Weeds to grow or accumulate on their Property or the Boulevard immediately adjacent to their Property.

5.3. No owner or Occupier of Property shall permit any trees, hedges or shrubs on their Property which are adjacent to a Public Place to become hazardous. An owner or Occupier of Property shall cause any such trees, hedges or shrubs to be removed from their Property at the written direction of the Director.

5.4. In the event that an owner or Occupier of Property is dissatisfied by any direction provided under section 5.3, the Owner may appeal the Directors' decision to the Chief Administrative Officer. If the Directors' decision is upheld the Property owner may request that the Council reconsider the Chief Administrative Officer's decision. Any reconsideration by the Council is final.

5.5. No owner or Occupier of Property shall permit any trees, hedges or shrubs to encroach upon a Highway or obstruct vehicular or pedestrian traffic.

5.6. No owner or Occupier of Property shall permit any trees, hedges or shrubs to cause damage to a roadbed, sidewalk, or utility service.

5.7. No person shall plant the following species of trees:

- (a) Balsam poplar (*Populus balsamifera*);
- (b) Black cottonwood (*Populus trichocarpa*);
- (c) Silver Poplar (*Populus alba*);
- (d) Lombardy Poplar (*Populus nigra 'Italica'*);
- (e) Balm of Gilead (*Populus x jackii*);
- (f) Willow (*Salix*).

5.8. Section 5.7 is not intended to require the removal of existing trees, excepting as may be required pursuant to section 5.9.

5.9. If a tree listed under section 5.7 is located on Property and is causing damage to any adjacent Property, the Director may, by written notice to the owner or Occupier of the Property on which such tree is located, require that the tree be removed within the time stated on such notice.

## **6. OUTDOOR WATERING**

6.1. No Person shall irrigate to a stage of Over-Watering at any time.

- 6.2. Between April 1 and September 30 of each year, no Person shall irrigate a lawn on a Property with an even numbered civic address except on even numbered days and between the hours of 7:00 p.m. and 10 a.m.
- 6.3. Between April 1 and September 30 of each year, no Person shall irrigate a lawn on a Property with an odd numbered civic address except on odd numbered days and between the hours of 7:00 p.m. and 10 a.m.
- 6.4. Any Property having an automatic irrigation system may irrigate a lawn on any day between the hours of 7:00 p.m. and 10 a.m. provided that irrigation does not occur two days in a row.
- 6.5. Hand watering is not subject to sections 6.2 and 6.3.
- 6.6. During a season of particular water shortage the District may, subject to provision of notice of the additional restriction and the effective date of that restriction:
  - (a) provide further limit on the permitted hours of irrigation; or
  - (b) ban outdoor irrigation completely.
- 6.7. No person shall irrigate contrary to a notice provided under section 6.6.
- 6.8. Irrigation for a municipal purpose by the District, including the golf course, is exempt from the requirements of this bylaw.
- 6.9. A Property is exempted from sections 6.2 and 6.3 for a lawn with sod laid or unestablished seed for a period not in excess of 30 days following planting.
- 6.10. A business licensed with the District of Elkford which has as its principal operation the growing and sale of plants is exempt from section 6 of this Bylaw.

## **7. NOISE**

- 7.1. No owner or Occupier of a Property shall make, or cause to allow to be made, any Noise which emanates from the Property that creates a Nuisance between the hours of 10:00 pm and 7:00 am.
- 7.2. No person shall operate, or permit the operation of, any motorized lawn-grooming, motorized garden equipment between the hours of 10:00 p.m. and 7:00 a.m.
- 7.3. No person shall carry on any construction or excavation in any manner which creates a Nuisance between the hours of 10:00 p.m. and 7:00 a.m.
- 7.4. If it is impossible or impractical to comply with Section 7.3, a person may request work be conducted outside of the hours designated. Such a request may be approved by the Director in writing, provided that in the Director's opinion:
  - (a) The work causing the noise will be for a duration of one week or less:

- (b) The work can not reasonably be completed between the hours of 7:00 a.m. and 10:00 p.m.

7.5. Sections 7.1 to 7.4 shall not apply to:

- (a) Activities of a maintenance or operational nature performed for the District by employees, agents or contractors of the District;
- (b) any Vehicle or equipment engaged in the plowing or removal of snow from a Highway, commercial, industrial or institutional zone;
- (c) any Property which is zoned I-1 Industrial;
- (d) use of snow clearing equipment on private property;
- (e) police, fire, or other emergency vehicles or equipment responding to an emergency or disaster;
- (f) equipment used to excavate, construct, or repair, Highways, or District infrastructure;
- (g) the use of bells or chimes by churches; or
- (h) any Noise emanating from an event authorized by the District and in accordance with the conditions imposed under an agreement.

**8. REMEDIAL ACTION REQUIREMENT (ORDER)**

- 8.1. The Bylaw Enforcement Officer may request that Council impose a Remedial Action Requirement pursuant to Sections 72, 73 or 74 of the Community Charter, S.B.C. 2003, c. 26.
- 8.2. Notice to affected persons of a Remedial Action Requirement shall be in accordance with Section 77 of Community Charter, S.B.C. 2003, as amended from time to time.
- 8.3. Reconsideration of a Remedial Action Requirement shall be in accordance with Section 78 of Community Charter, S.B.C. 2003, as amended from time to time.
- 8.4. If the Owner or Occupier fails to comply with a Remedial Action Order Requirement, in whole or in part, the District, may, by its employees, contractors, and agents, enter onto the premise or premises, and take action in accordance with Section 17 of the Community Charter, and fulfill the requirements of the Remedial Action Requirement, including the cost of such actions. If such costs remain unpaid by December 31 of the year in which they are owing, the costs may be recovered as taxes in arrears in accordance with Division 12 of the Community Charter.

**9. OFFENCES AND PENALTIES**

- 9.1. Any person who contravenes, violates, or fails to comply with any provision of this Bylaw, or who suffers or permits an act or thing to be done in contravention or violation of this Bylaw, or fails to do anything required by this Bylaw, commits an offence, and shall be liable upon conviction:
  - (a) on summary conviction, to a fine of not more than Ten Thousand (\$10,000.00) dollars or;
  - (b) fine(s) imposed under the Municipal Ticket Information Bylaw as amended from time to time.

- 9.2. In addition to any fine imposed, the District may seek reimbursement for the cost of any prosecution, and seek any other penalty or order be imposed pursuant to the Community Charter or Offence Act as amended from time to time.
- 9.3. If an offence continues for more than one day, each day that the offence continues constitutes a separate and distinct offence.
- 9.4. Nothing in this Bylaw limits the District from utilizing any other remedy that is otherwise available to the District by law.

**10. SEVERABILITY**

- 10.1. 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 section, subsequent, paragraph, or subparagraph.

**11. REPEAL**

- 11.1. District of Elkford Unsightly Premises Bylaw No. 414, 1991 and any amendments thereto are hereby repealed.
- 11.2. District of Elkford Noise Control Bylaw No. 198, 1982 and any amendments thereto area hereby repealed.
- 11.3. District of Elkford Outdoor Water Conservation Bylaw No. 769, 2015 and any amendments thereto are hereby repealed.
- 11.4. District of Elkford Loitering and Public Nuisances Control Bylaw No. 658, 2005 and any amendments thereto are hereby repealed.

READ A FIRST TIME this 27<sup>th</sup> day of June, 2022.

READ A SECOND TIME this 27<sup>th</sup> day of June, 2022.

READ A THIRD TIME this 11<sup>th</sup> day of October, 2022.

ADOPTED this 24<sup>th</sup> day of October, 2022.

---

Dean McKerracher – Mayor

---

Chantel Dawson – Director of Corporate Services