



**REGIONAL DISTRICT OF CENTRAL KOOTENAY
NUISANCE BYLAW NO. 2043, 2009**

ADOPTED MARCH 19, 2009

**REGIONAL DISTRICT OF CENTRAL KOOTENAY
NUISANCE BYLAW NO. 2043, 2009**

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LIST OF AMENDMENTS TO REGIONAL DISTRICT OF CENTRAL KOOTENAY NUISANCE BYLAW NO. 2043, 2009 UP TO (see date at bottom of last page of amendments) WHICH ARE INCLUDED IN THIS CONSOLIDATED VERSION OF THE BYLAW

Bylaw No. File No.	Adopted	Amendment	Purpose
2064	November 26, 2009	Item 1 include Area C to participants and amend Definition of Nuisance	Include Area C and amend Definition of Nuisance by changing Municipal Act to Local Government Act

NOVEMBER 26, 2009

**REGIONAL DISTRICT OF CENTRAL KOOTENAY
NUISANCE BYLAW NO. 2043, 2009**

CONTENTS

	Page
PART 1 – INTRODUCTION.....	1
Title	1
Definitions.....	1
PART 2 – REGULATIONS.....	3
PART 3 – ENFORCEMENT	3
PART 4 – APPEAL AND PENALTY.....	4
Severability.....	5
Exemption	5

REGIONAL DISTRICT OF CENTRAL KOOTENAY

BYLAW NO. 2043

A bylaw to prohibit or regulate nuisances within Electoral Areas C, E, F, G and J of the Regional District of Central Kootenay.

The Board of the Regional District of Central Kootenay, in open meeting assembled, enacts as follows:

PART 1 – INTRODUCTION

Title

1. This Bylaw may be cited as the “Regional District of Central Kootenay Nuisance Bylaw No. 2043, 2009”.

Definitions

2. In this Bylaw,

“Dangerous Structure” means:

- (i) a building, fence, retaining wall, sidewalk, scaffolding, structure or other erection of any kind; or
- (ii) an earth excavation in or on any real property or on a highway that is in an unsafe condition and/or is a danger to the public.

“Highway” includes:

a street, road, lane, bridge, viaduct and any other way open to public use, but does not include a private right of way on private property.

“Inspector” means:

any member of the Royal Canadian Mounted Police, Bylaw Enforcement Officer or his or her designate appointed from time to time by resolution of the Regional Board to administer and enforce this bylaw.

“Nuisance” includes:

the common dictionary meaning and as used in the *Local Government Act* as an act or omission which obstructs or endangers the public and includes a dangerous structure.

“Occupier” means a person:

- (a) who is qualified to maintain an action for trespass;
- (b) in possession of Crown land under a homestead entry of pre-emption record;
- (c) in possession of Crown land or land owned by a municipality or Regional District under a lease, license, agreement for sale, accepted application to purchase, easement or other record from the Crown, municipality or Regional District who simply occupies the land.

“Owner” means:

the registered owner of an estate in fee simple, and includes

- (a) the tenant for life under a registered life estate;
- (b) the registered holder of the last registered agreement for sale;
- (c) the holder or occupier of land held in the manner described in *Sections 409 and 410 of the Local Government Act*

“Person” includes:

a corporation, partnership 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 law a part of it.

“Regional District” means:

the Regional District of Central Kootenay.

PART 2 – REGULATIONS

3.

- (a) All persons are prohibited from causing, creating or permitting any nuisance to occur or to continue from or on any real property, watercourse, of highway within the Regional District.
- (b) No person, owner or occupier of real property shall allow any building, structure or erection of any kind, or watercourse, or other matter of thing, whether in or on private land or a highway, or in or about a building or structure, to become or remain a nuisance.
- (c) Owners or occupiers of real property within the Regional District are required, when said property has a nuisance located on or in said real property to remove or correct the nuisance.

PART 3 – ENFORCEMENT

4.

- (a) The Inspector may at any reasonable time enter upon any real property within the Regional District for the purpose of inspecting said real property in order to ascertain whether or not the provisions of this Bylaw are being complied with.
- (b) Inspections of real property under this Bylaw by the Inspector may be initiated:
 - (i) by request of the Regional Board;
 - (ii) by complaints received pursuant to paragraph 4(c) hereof.
- (c) Complaints regarding any violation of the provisions of this Bylaw must be made in writing to the Inspector who may inspect the real property which is the subject of the complaint.
- (d) If the Inspector determines that any real property within the Regional District has a nuisance on it or in it, he shall advise the owner and/or the occupier of the real property to:
 - (i) Remove any nuisances thereon within thirty (30) days of the giving of notice;

- (e) Any written notice to be given by the Inspector under the provision of this Bylaw shall be deemed to be validly given if:
 - (i) delivered personally by the Inspector or designee
 - (ii) mailed to the owner or occupier of the real property in question by return registered mail and addressed to the said owner and/or occupier in care of the ordinary postal address for such real property.
- (f) In the event the owner or occupier of real property cannot be contacted via return registered mail at the ordinary postal address for such real property, notice may be given to the owner and/or occupier by posting a copy of the order upon a building on the property or, in the case of vacant land, in a location visible from an adjacent highway.
- (g) If, after the expiry of thirty (30) days from the date of the notice given pursuant to this Bylaw, the nuisance has not been:
 - (i) Corrected to the satisfaction of the Inspector;
 - (ii) Removed to the satisfaction of the Inspector;

by the owner or occupier of the real property in questions, it shall be lawful for the Regional District by its workmen and others, to enter upon said real property and effect the correction or removal of the nuisance condition by any means possible under the existing circumstances at the expense of the owner and/or occupier so defaulting, and the charges incurred by the Regional District for so doing, if unpaid on the 31st day of December in any year, shall be added to and form part of the taxes payable in respect of such real property as taxes in arrear.

PART 4 – APPEAL AND PENALTY

- 5. Notwithstanding the foregoing provisions of this Bylaw, where the Inspector has given notice pursuant to this Bylaw, the owner or occupier of real property receiving such notice, shall have the right, within ten (10) days of receipt of such notice, to appeal in writing to the Regional Board, and such owner or occupier shall be entitled to appear before the Regional Board and to present evidence and call witnesses and on the conclusion of the appearance, the Regional Board may rescind, vary or confirm the notice.

6.

- (a) Every owner or occupier of real property who violates any provision of this Bylaw, or who refuses or neglects to observe or perform any duty or obligation created or imposed by this Bylaw, is guilty of an offence against this bylaw and each day's continuance of the violation, refusal or neglect, constitutes a new and distinct offence;
- (b) Every owner or occupier of real property who, without lawful excuse, contravenes this Bylaw by willfully doing any act which this Bylaw forbids, or omitting to do any act which the Bylaw requires to be done, is guilty of an offense and is liable on summary conviction to a fine of not less than One Hundred (\$100.00) Dollars and not more than One Thousand (\$1,000) Dollars for the first offence and for each subsequent offence to a fine of not less than Two Hundred (\$200.00) Dollars, together with all court costs, or in default thereof, to imprisonment for a period not exceeding six months.
- (c) The penalties imposed under this Section of the Bylaw shall be in addition to and not in substitution for any other penalty or remedy imposed by this Bylaw.

Severability

- 7. No provision of this Bylaw depends for its validity on the validity of any other provision.

Exemption

- 8. Notwithstanding the other provisions of this Bylaw, all discharges of plant and animal wastes emanating from traditional framing operations which are managed and applied in a reasonable manner to promote crop production are exempt from the provision of this Bylaw.

READ A FIRST TIME this 19th day of March, 2009.

READ A SECOND TIME this 19th day of March, 2009.

READ A THIRD TIME this 19th day of March, 2009.

ADOPTED this 19th day of March, 2009.

"G.L. Wright"

"Dawn Attorp"

CHAIR

SECRETARY