

MUNICIPAL DISTRICT OF BIGHORN NO.8

BYLAW NO. 07/09

BEING A BYLAW OF THE MUNICIPAL DISTRICT OF BIGHORN NO. 8 IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF PROHIBITING, ELIMINATING AND ABATING NOISE.

WHEREAS the Municipal Government Act, Chapter M-26, RSA, 2000, as amended permits that the Council of a municipality to pass bylaws to regulate and control noise within the MD of Bighorn No. 8;

WHEREAS the Council of the MD of Bighorn No. 8 deems it is necessary to provide for the fair efficient regulation and control of undesirable noise within the municipality, especially during the hours used for sleeping; and

WHEREAS the intent of this Bylaw is that all noise shall be reduced as far as possible and compatible with the normal activities of life, and that unnecessary noise be eliminated;

NOW THEREFORE the Council of the Municipal District of Bighorn No. 8 in the Province of Alberta duly assembled, enacts as follows:

1 TITLE

1.1 This Bylaw may be cited as the "Noise Control Bylaw".

2 DEFINITIONS

2.1 In this Bylaw:

- a) "Chief Administrative Officer" means the person appointed by Council in accordance with the Municipal Government Act, and is referred to throughout this bylaw as the CAO.
- b) "construction" means the temporary process of demolishing or building any structure, or repairing or improving a building that already exists, and includes landscaping, home repair, property improvement and any work in connection with that process;
- c) "Council" means the duly elected and assembled Municipal Council of the Municipal District of Bighorn No. 8, in the Province of Alberta;
- d) "day" means the period commencing between 07:00 hours and ending at the hour of 23:00 hours in the evening of the same day;
- e) "electronic device" means any device or mechanism which is operated by the application of electric current which reproduces recorded sound, and without restricting the generality of the foregoing, includes any radio receiver, radio transmitter, audio player or device, television, amplifier or loud speaker, alarm or siren;

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- f) "Municipality" means the Corporation of The Municipal District of Bighorn No. 8 of the Province of Alberta and the land within its boundaries;
- g) "night" means the period commencing at 23:00 hours in the evening and ending at 07:00 hours in the morning of the following day;
- h) "noise" means any loud, unnecessary or unusual sound that annoys, aggravates, endangers or disturbs humans or animals, or which detracts from the comfort, peace, health, safety of any person and the enjoyment of their property;
- i) "off-highway vehicle" means any motorized mode of transportation built for cross-country travel on land, water, snow, ice, marsh or swamp land or on other natural terrain.
- j) "Peace Officer" means a member of the Royal Canadian Mounted Police, a Special Constable or a Bylaw Enforcement Officer for the MD of Bighorn;
- k) "person" is an individual or any business entity including a firm, partnership, association, corporation, company or society but does not include the MD of Bighorn No. 8;
- l) "residential area" means any land designated as a hamlet residential or country residential district in the Land Use Bylaw.

3 GENERAL PROHIBITION

- 3.1 No person shall make, continue or cause or allow to be created any excessive noise whatsoever, or shall allow or permit any real or personal property that is owned, occupied or controlled by that person to be used in a way that creates excessive noise.
- 3.2 What constitutes a loud noise, an unnecessary noise, an unusual noise or a noise which annoys, aggravates, endangers or disturbs humans or animals is a question of fact to be found by a court which hears a prosecution of an offence against this Bylaw.
- 3.3 No person shall operate or permit the operation of any tool, equipment, machinery, electronic or mechanical device which creates excessive noise in any residential area at night.

4 COMMERCIAL AND INDUSTRIAL NOISE

- 4.1 Unless permission is first obtained from the Municipality, no person shall operate any tool, equipment, machinery, electronic or mechanical device of a noisy nature at night.
- 4.2 No person shall advertise any event or merchandise by ringing bells, calling loud, playing any type of music or noise making instrument or by any other audible means.

- 4.3 Notwithstanding other provisions in this Bylaw, nothing in this Bylaw shall prevent the continual operating or carrying on of a normal industrial activity during some or any of the hours during the night where the activity is:
- a) permitted or discretionary in the district in which the operation is being carried out and a development permit has been issued; or
 - b) a non-conforming use as the same is defined in the Land Use Bylaw.
- 4.4 In the operation or carrying on of an industrial activity, as provided for in section 4.4 above, the person operating or carrying on the activity shall not make more noise than necessary in the normal method of operating or carrying on the activity.

5 CONSTRUCTION NOISE

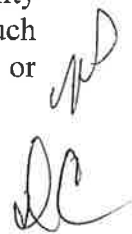
- 5.1 Unless permission from the CAO or designate for such operation is first obtained, no person shall carry on construction or create a sound which may be heard beyond the boundaries of the site on which the activity is being carried on during 22:00 hours to 07:00 hours.

6 MOTOR VEHICLE NOISE

- 6.1 No person shall operate or permit any other person to operate in a residential area a motor vehicle or off-highway vehicle in a fashion that causes excessive and unnecessary noise as to unduly disturb the residents.
- 6.2 No person who owns, operates or controls a vehicle equipped with an audible alarm system shall allow such system to be activated repeatedly or excessively, whether such activation is due to system malfunction, improper installation or setting, or any other reason.

7 EXEMPTIONS

- 7.1 The provisions in this Bylaw do not apply to the following specific exemptions:
- a) emergency vehicles or the use of signaling devices on vehicles in their normal operation for the purpose of giving warnings to other drivers or pedestrians;
 - b) the ringing of bells in schools;
 - c) work performed in relation to a highway or public utility by the owner or operator of the utility, or its contractors;
 - d) persons using domestic equipment including, without limiting the generality of the foregoing, lawn mowers, snow blowers, garden tillers, and such equipment is used during the day and the noise is of a temporary or intermittent nature;



e) any activity within the sole jurisdiction of the Government of Canada or the Province of Alberta; and

f) railway related activities.

7.2 Notwithstanding anything in this Bylaw, a person may make written application to the CAO for a permit allowing activities that would otherwise violate this Bylaw. An application shall be made at least 5 business days prior to the event or activity.

8 ENFORCEMENT

8.1 Where a Peace Officer has reasonable grounds to believe that a person has contravened any provision of this Bylaw, the Peace Officer may commence proceedings against such person by serving a violation tag.

8.2 All violation tags issued must contain the section of the Bylaw which was contravened, provide for a voluntary payment amount pursuant to the provisions of this Bylaw, and/or provide for a date, time, and location for an appearance in court should an accused exercise their right to defend any charge(s) pursuant to the provisions of this Bylaw.

9 PENALTIES

9.1 Any person who violates any provision of this Bylaw is guilty of an offence and is liable on conviction to a fine in the amount of:

a) \$250.00 for a first offence; and

b) \$500.00 for a second or subsequent offence.

9.2 The minimum fine for the contravention of any provision of this Bylaw shall not be less than \$250.00 and the maximum fine shall not exceed \$2500.00.

9.3 Where a violation tag is issued, the fine amount indicated thereon may be paid as directed in lieu of prosecution.

9.4 In default of payment of the fine, the person is liable to imprisonment for a term not exceeding six months or until such fine has been paid.

10 EFFECTIVE DATE

10.1 This Bylaw shall come into full force and effect upon final passing.

10.2 Bylaw No. 7/89 and all amendments thereto are hereby repealed.

READ A FIRST TIME THIS 9TH DAY OF JUNE, 2009.

READ A SECOND TIME THIS 11TH DAY OF AUGUST, 2009.

READ A THIRD TIME THIS 11TH DAY OF AUGUST, 2009.


Reeve


Executive Assistant

