

BYLAW 18/2009

A BY-LAW OF THE TOWN OF HIGH PRAIRIE, PROVINCE OF ALBERTA, TO REGULATE CERTAIN ACTIVITIES CREATING NOISE AND TO PROHIBIT EXCESSIVE NOISE.

WHEREAS: pursuant to Section 7 of the Municipal Government Act, S.A. 1994 c.M-26, provides that the Council of the Town of High Prairie may pass bylaws for municipal purposes respecting the safety, health, welfare and protection of people;

WHEREAS: Council is concerned about activities within the Town of High Prairie which create undue noise which may harm the safety, health and welfare of the residents of the town and Council deems it expedient that regulations be made restricting, mitigating and abating those activities which can give rise to unnecessary noise.

WHEREAS: The intent of the Bylaw is that all noise shall be reduced as far as possible compatible with the normal activities of urban life and that unnecessary noise be controlled;

NOW THEREFORE: THE COUNCIL OF THE TOWN OF HIGH PRAIRIE, IN THE PROVINCE OF ALBERTA, IN REGULAR SESSION DULY ASSEMBLED, HEREBY ENACT AS FOLLOWS:

DEFINITIONS:

1. This Bylaw may be cited as “The Noise Bylaw”
2. In this Bylaw, including this Section,
 - a) **Town-** means the Town of High Prairie
 - b) **Holiday-** means any statutory holiday as defined in The Interpretation Act
 - c) **Hospital Zone** – means an area which:
 - i) is designed as such by signs or other devices, or
 - ii) any position of the Town within one hundred fifty metres in any direction from the boundaries of a site on which is situated a hospital as defined in the Alberta Hospitals Act;
 - d) **Noise** – means any sound, howsoever produced, and includes the sound of human voices, any sound or sounds emitted by animals, emitted by any motor vehicle or machinery or equipment or radio or television or musical instrument or any other apparatus which produces sound;

- e) **Residential Building** - means a building which is constructed as a dwelling for human beings and includes a hotel.
- f) **Residential District-** means any land use district so identified in Section K of the Town of High Prairie Land Use Bylaw, the primary purpose of which is to provide for residential development
- (g) **Quiet Hours** – means the period commencing at the hour of ten o’ clock in the evening and ending at the hour of seven o’ clock in the forenoon the following day.
- h) **Signalling device-** means a horn, gong, bell, claxon, or other device producing an audible sound for the purpose of drawing people’s attention to an approaching vehicle, including a bicycle.
- i) **Peace Officer** – shall mean any member of the R.C.M.P., Community Peace Officer or any other person engaged by the Town to enforce the provisions of this Bylaw
- j) **Weekday-** Means any day other than a Sunday or Holiday;
- k) **Land Use Bylaw** – means the Town of High Prairie Land Use Bylaw #4/98; as from time to time amended, or a bylaw passed in substitution.
- l) **Animal Control Bylaw-** means the Town of High Prairie Animal Control Bylaw #5/98; as from time to time amended, or a bylaw passed in substitution.

General Prohibition:

- 3. (a) Except to the extent it is allowed by this Bylaw no person shall make, continue or cause or allow to be made or continued any loud, unnecessary or unusual noise or any noise whatsoever which either annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons within the limits of the Town.
- (b) What is a loud noise, an unnecessary noise, an unusual noise or a noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others is a question of fact for a court which hears a prosecution of an offence against this Bylaw.
- (c) Where an activity which is not specifically prohibited or restricted by any provision of any legislation or regulations of Canada or of the Province of Alberta or by any provision of this Bylaw, creates or makes a sound which is or may become, or creates or produces or may create or produce a disturbance or annoyance to other people or a danger to the comfort, repose, health, peace or safety of others, a person engaging in such an

activity shall do so in such a manner as to create as little of such sound as practicable under the circumstances.

Hospital Zones:

4. (a) Where an area is designated by signs or other means, as being a hospital zone no person shall:
 - i) Carry on any noise-making activity in the area unless it cannot be carried on in some other area, or
 - ii) Make or continue any noise or loud sound within the area.

Motor Vehicle Noise:

5. (1) The failure of a person to comply within the Town with the following provisions of the Traffic Safety Act

(a) The prohibition against the use of signalling devices on motor vehicles, motorcycles or bicycles so as to make more noise than is reasonably necessary for the purpose of giving notice or warning to other persons on the highway as set out in the Traffic Safety Act.

(b) The restrictions on the type or use of mufflers and similar equipment on motor vehicles and other internal combustion engines as set out in the Traffic Safety Act;

(c) The prohibition against equipping a vehicle other than those specified with a siren as set out in the Traffic Safety Act; Shall constitute a violation of this Bylaw in addition to and not in substitution for the offence created by The Traffic Safety Act.

(2) If a person operates a vehicle of any type on a street in a Residential District at any time of the day or night in such a way as unduly to disturb the residents of the street in the Residential District in which the person operating the vehicle shall be guilty of an offence under this Bylaw in addition to and not in substitution for an offence of which that person may be guilty against the provisions set out in Section 87 of The Traffic Safety Act. In the Use of Highway and Rules of the Road Regulations

(3) Where a vehicle is allowed by the provisions under the Traffic Safety Act to be equipped with a siren the driver thereof shall only use the siren at such times as the vehicle is proceeding in response to an emergency call and at such times shall only use the siren when it is necessary for the purpose for which the siren is allowed to be used.

(4) Nothing in Subsection (3) shall prohibit or restrict the use of a siren on a vehicle operated by a member of the Royal Canadian Mounted Police, an inspection of the Inspection services Branch of the Department of the Attorney General or a Peace Officer.

(5) No person shall allow the diesel motor on a tractor which pulls a trailer or semi-trailer truck to remain running for longer than twenty minutes while the tractor-trailer or tractor alone is not in motion in any Residential District or in any other location within one hundred fifty metres of a Residential District.

(6) No person shall use or engage in the use of retarder brakes within the Town limits.

(7) The provisions of subsection (2) do not apply to work on a Town street or on a Public Utility carried on by:

(a) The Town's Public Works Department; or

(b) Any company or corporation which is authorized to supply electricity, water, natural gas, telephone or cable television in the Town.

Commercial & Industrial Noise:

6. (1) Subject to subsection (2) no person shall advertise any event or merchandise by ringing bells, calling loud, playing any type of musical or noise making instrument or by any other audible means in any part of the Town.

(2) The provisions of subsection (1) shall not be construed to prevent:

(a) The ringing of bells in churches, religious establishments and schools;

(b) The moderate use of musical instruments to call attention to an opportunity to contribute to a collection made for a charitable undertaking;

(c) The sounding of a general or a particular alarm or warning to announce a fire or other emergency or disaster;

(d) The sounding of factory whistles and similar devices at normal appropriate times;

(e) The playing of a band in connection with a parade allowed pursuant to the provisions of the Traffic Bylaw;

(f) The playing of a musical instrument appropriate to a street service allowed pursuant to any Bylaw in a moderate manner;

(g) The sounding of police whistle, police, fire or ambulance sirens;

(h) The sounding of horns or claxons on vehicles allowed on the streets for the purpose of and to the extent necessary to give signals or warnings to persons and vehicles using the streets; or

(i) The operation of a musical device approved by the Peace Officer or Bylaw inspector and installed on a vehicle equipped for the sale of ice cream or confection while the vehicle is used for such sales.

(3) Notwithstanding anything elsewhere contained in this Bylaw whether or not the noise resulting therefore may be heard in an adjoining area which is zoned other than an Industrial District nothing in this Bylaw shall prevent continual operation or carrying on of an industrial activity or the performance or carrying on thereof during quiet hours in an area which is classed as an Industrial District designated and set out in Land Use Bylaw as long as the activity is one which:

(a) Is a permitted use in the zoning district in which it is carried on or is a conditional use for which the required permission has been given or

(b) Is a non-conforming use as the same is defined in Land use Bylaw Number 4/98 aforesaid for the district in which the use is being carried on.

(c) In the operation or carrying on of a commercial or industrial activity in a district in which it would be curtailed or restricted except for the provision of Section (3)(c) the person operating or carrying on the activity shall not make more noise than is necessary in the normal method of performing or carrying on the activity.

DOMESTIC NOISE

7. (1) no person shall operate a lawn mower or snow blower in any areas designated in the Land Use Bylaw as a Residential District during quiet hours.

(2) In addition to but not in substitution for any penalty which a person may incur by a contravention of any provision of the Animal Control Bylaw a person who owns, keeps, houses, harbours or allows to safety on his premises a dog which by reason of barking or howling disturbs persons in the vicinity of his home is guilty of an offence under this Bylaw.

Construction Noise:

8. (a) No person(s) shall carry on the construction of any type of structure which involves hammering, sawing or the use of any mechanical tools or equipment capable of creating a loud noise which may be heard in any residential subdivision beyond the boundaries of the site on which the activity is being carried on during quiet hours;

(b) Subsection (a) does not apply to work of a circumstance requiring immediate attention or remedy carried on by a Town department; or any individual, company or corporation which is authorized to supply electricity, water, natural gas, telephone or cable television in the Town;

(c) Subsection (a) does not apply to the use of agricultural implements in a General Industrial or Urban Reserve Land Use District.

Penalties & Enforcement:

9. (1) Subject to the provisions of subsection (2) and (3) a person who contravenes any provision of this By-law either by doing something which he is prohibited from doing or failing to do something which is required to do is guilty of an offence and is liable on summary conviction to a fine not in excess of five hundred dollars or in default of payment of the fine and costs to imprisonment with or without hard labour for a period not exceeding thirty days or until such fines and costs including the costs of committal shall have been sooner paid.

(2) A peace officer may issue a violation ticket to the owner or occupant for the violation of any section of this bylaw

(a) for a first offence to a fine of One Hundred Dollars (\$100.00)

(b) for a second offence within one year of the date of conviction of the first offence to a fine of Two Hundred Dollars (\$200.00)

(c) for a third or subsequent offence within one year of the date of conviction of the first offence to a fine of Three Hundred and Fifty Dollars (\$350.00) and seizure of any noise making device or items

(3) When a peace officer has reasonable grounds to believe a violation of this bylaw exists, he may enter, without warrant, any dwelling, house or other property and therein seize and confiscate as evidence any noise-making devices or items he believes may have been used to violate the provisions of this bylaw.

(4) Any noise-making devices or items seized under section 2 may be held by the confiscating Peace Officer until the expiry of all judicial process at which time the said devices and items shall be returned to the rightful owner.

(5) A Peace Officer may enter any land, buildings or premises to inspect for conditions that may constitute a nuisance or contravene or fail to comply with the terms of this bylaw.

9. TRANSITION

- 9.1 All Schedules attached to this Bylaw may be amended from time to time by resolution of Council.
- 9.2 Upon passage of this Bylaw, Bylaw 15/2001 shall be repealed and no longer be in force.
- 9.3 Should any provision of this bylaw be invalid, then the invalid provision shall be severed and the remainder of the Bylaw shall be maintained.

READ a first time this 09 day of December, 2009.

READ a second time this 09th day of December, 2009.

Given Unanimous Consent this 09th day of December, 2009.

READ a third time and finally passed this 09th day of December, 2009.

Mayor Rick Dumont

Town Manager