

TOWN OF SUNDRE

BYLAW NO. 818

A BYLAW OF THE TOWN OF SUNDRE TO REGULATE AND CONTROL NOISE

WHEREAS Section 7 of the *Municipal Government Act*, R.S.A. 2000, Chapter M-26 permits the Council to pass bylaws respecting nuisances; the safety, health and welfare of people; and the protection of people and property; and

WHEREAS the Council deems it necessary to provide for the fair and efficient regulation and control of Noise occurring within the Town of Sundre; and

WHEREAS the Council deems it necessary to repeal and replace Bylaw No. 725, the existing "Noise Bylaw"; and

WHEREAS the Council recognises that the Town is large and diverse, and includes areas where residential, commercial, agricultural and industrial uses of land and buildings are permitted;

**NOW, THEREFORE, THE COUNCIL OF THE TOWN OF SUNDRE,
DULY ASSEMBLED, HEREBY ENACTS AS FOLLOWS:**

TITLE

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

DEFINITIONS

2. In this Bylaw, unless the context otherwise requires:
 - (a) "**Council**" means the Council of the Town of Sundre;
 - (b) "**Court**" means the Provincial Court of Alberta;
 - (c) "**Daytime**" means the period:
 - (i) beginning at 7:00 A.M. and ending at 10:00 P.M. of the same day on Weekdays and;
 - (ii) beginning at 9:00 A.M. and ending at 10:00 P.M. of the same day on a Weekend;

Bylaw No. 818

- (d) “**Emergency Vehicle**” has the same meaning as in the Traffic Safety Act;
- (e) “**Enforcement Officer**” means a Bylaw Enforcement Officer or Special Constable employed by the Town of Sundre, and includes a member of the R.C.M.P. who is authorised to enforce Bylaws of the Town of Sundre;
- (f) “**Garbage Truck**” means any Vehicle equipped for transporting refuse or any Vehicle equipped to load, unload and transport containers for handling refuse;
- (g) “**Traffic Safety Act**” means the Traffic Safety Act, R.S.A. 2000, Chapter T-6, and the regulations thereof, as amended or replaced from time to time;
- (h) “**Holiday**” has the same meaning as in the Interpretation Act, R.S.A. 2000, Chapter I-8, as amended or replaced from time to time;
- (i) “**including**” when introducing a list of items, does not limit the meaning of the words to those items or to items of a similar kind;
- (j) “**Motorized Power Tool**” means any tool or implement that is powered by an electric or internal combustion motor, or compressed air, including snow-blowers, lawn mowers and motorized garden tools.
- (k) “**Town**” means the municipal corporation of the Town of Sundre in the Province of Alberta, or the area within Sundre’s corporate limits, as the context requires;
- (l) “**Municipal Government Act**” means the Municipal Government Act, R.S.A. 2000, Chapter M-26, as amended or replaced from time to time;
- (m) “**Night-time**” means the period beginning at 10:00 P.M. and ending the following day at:
 - (i) 7:00 A.M. if the following day is a Weekday; or
 - (ii) 9:00 A.M. if the following day is a Weekend;
- (n) “**Noise**” means any sound that annoys, aggravates, endangers or disturbs humans or animals, or which detracts from the comfort, peace, or repose of humans, including any loud music or outcry, clamour, shouting, or any other sound that is loud, harsh or otherwise undesirable;
- (o) “**Person**” means an individual or any business entity including a firm, partnership, association, corporation, company, or society;
- (p) “**Provincial Offences Procedure Act**” means the Provincial Offences Procedure Act, R.S.A. 2000, Chapter P-34, and the regulations thereof, as amended or replaced from time to time;

Bylaw No. 818

- (q) “**Residential Building**” means a structure used as a residence containing one or more dwelling units, including a house, multi-family dwelling, apartment building, lodging house, hotel, motel, mobile home or hospital;
- (r) “**Residential Development**” means any land that is the site of one or more Residential Buildings;
- (s) “**Signalling Device**” means any device that produces an audible sound used for the purpose of drawing a person’s attention, including a horn, gong, bell, klaxon or public address system;
- (t) “**Speaker System**” means any sound amplification device that converts electrical impulses into sound, whether the device is independent or incorporated into a radio, stereo, television, computer, or public address system, including any such device located in a building, vehicle, or portable self-contained unit;
- (u) “**Tractor-Trailer**” means the combination of a Truck-Tractor and a Trailer as those terms are defined in the Traffic Safety Act;
- (v) “**Truck**” means any Vehicle that has a gross vehicle weight in excess of 4000 kilograms but does not include a Concrete Mixer, Tractor-Trailer, or Garbage Truck;
- (w) “**Vehicle**” has the same meaning as in the Traffic Safety Act;
- (x) “**Weekday**” means Monday through Saturday, inclusive, with the exception of any Holidays;
- (y) “**Weekend**” means Sunday and any other Holiday.

GENERAL PROHIBITION

- 3. No Person shall in either the Daytime or the Night-time:
 - (a) make, continue, cause, or allow to be made or continued any excessive, unnecessary, or unusual Noise of any type; or
 - (b) allow or permit any real or personal property that is owned, occupied or controlled by that Person to be used in a way that allows excessive, unnecessary, or unusual Noise of any type to emanate from such property; or
 - (c) operate, allow or permit the operation of a Speaker System of any type at an unnecessarily loud volume, thereby creating excessive Noise.

Bylaw No. 818

4. (a) Whether or not a particular sound complained of constitutes a Noise, or is an “excessive, unnecessary or unusual Noise” are questions of fact to be determined by a Court hearing a prosecution pursuant to the provisions of this Bylaw.
- (b) When making the determination as to whether a particular sound constitutes an “excessive, unnecessary or unusual Noise” the Court shall consider any admissible evidence as to:
 - (i) the time of the disturbance complained of and whether it was during the Daytime or the Night-time;
 - (ii) the location of the disturbance and whether or not the disturbance occurred in a Residential Development;
 - (iii) the duration and nature of the disturbance; and
 - (iv) any other circumstances or factors relating to the disturbance which the Court deems are relevant to the said determination.
5. Where a business, commercial or agricultural activity otherwise lawfully permitted at a location within the Town necessarily involves the creation of Noise, as defined by this Bylaw:
 - (a) the Person owning, operating, or controlling the activity; or
 - (b) the Person owning or controlling the property upon or within which the activity is allowed to take place

shall take all reasonable steps to ensure that the Noise created by the said activity is minimised as much as practicable, in all the circumstances.
6. Whether or not an activity referred to in Section 5 of this Bylaw “necessarily” involves the creation of Noise, and whether or not the Person controlling the said activity has taken “all reasonable steps” to minimise such Noise are questions of fact to be determined by a Court hearing a prosecution pursuant to this Bylaw.

ACTIVITIES IN RESIDENTIAL DEVELOPMENTS

7. No Person shall operate, allow or permit the operation of:
 - (a) a Motorized Power Tool outside of any building or structure;
 - (b) a model aircraft powered by an internal combustion engine of any kind; or
 - (c) a Signalling Device of any kind, including a vehicle horn,

in a Residential Development in the Night-time.

Bylaw No. 818

8. No Person who owns, operates or controls a Truck-Tractor or Tractor-Trailer shall allow such vehicle to remain running for a period in excess of 20 minutes when it is stationary within a Residential Development or within 150 meters of a Residential Development.
9. No Person shall carry on, allow or permit the carrying on of construction outside of any building or structure within a Residential Development in the Night-time.

VEHICLE NOISES

10. No Person who owns, operates or controls a vehicle equipped with engine retarder brakes shall allow such brakes to be engaged in any area within the Town where the use of engine retarder brakes is prohibited by signage placed by the Town, the Provincial Government, or other proper authority.
11. No Person who owns, operates or controls a Truck, Concrete-Mixer, Tractor-Trailer or Garbage Truck shall allow or permit such vehicle to be loaded or unloaded within a Residential Development or within 150 meters of a Residential Development during the Night-time.
12. Notwithstanding Section 13 of this Bylaw, a Person may, at any time in a Residential Development unload a Truck or Tractor-Trailer containing fresh fruit, produce or other perishable merchandise, or containing newspapers being delivered to vendors.
13. 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.
14. No Person who owns, operates or controls a vehicle shall allow the engine of the vehicle to be raced or otherwise operated so as to cause excessive and unnecessary Noise.

EXEMPTIONS & EXCEPTIONS

15. The provisions of this bylaw do not apply to:
 - (a) Emergency Vehicles;
 - (b) construction activities and related Noise during the daytime;
 - (c) work performed in relation to a highway or public utility by the owner or operator of the public utility, or its contractors;
 - (d) the aeronautical related activities of any airports located within or nearby the Municipal District;

Bylaw No. 818

- (e) any activity within the sole jurisdiction of the Government of Canada or the Province of Alberta.
16. The provisions of this Bylaw must not be interpreted to prevent:
- (a) the ringing of bells in churches, religious establishments, and schools;
 - (b) the use of Signalling Devices on Vehicles in their normal operation for the purpose of giving warnings to other drivers or pedestrians;
 - (c) the sounding of any alarm or warning to announce a fire or other emergency;
 - (d) the playing of a band or other activities relating to a lawful parade or public demonstration.

GENERAL PENALTY PROVISION

17. Any Person that violates any provision of this Bylaw is guilty of an offence and is liable upon conviction to a maximum fine of \$10,000 or in default of payment of the fine to imprisonment for a period not exceeding one year, or to both fine and imprisonment in such amounts.

MINIMUM AND SPECIFIED PENALTIES

18. The minimum and specified penalty for a violation of Section 10 of this Bylaw is a fine in the amount of \$400, and the minimum and specified penalty for a violation of any other provision of this Bylaw is a fine in the amount of \$200.
19. Notwithstanding Section 18 of this Bylaw, if a Person violates the same provision of this Bylaw twice within a one-year period, the minimum and specified penalty for the second such violation shall be double the amount set out in Section 18.
20. The penalty in lieu of prosecution for a violation of any provision of this Bylaw, proceeded with in accordance with Section 21(c) of this Bylaw, is one-half of the specified penalty provided for the offence in Sections 18 and 19 of this Bylaw.

ENFORCEMENT

21. Where an Enforcement Officer has reasonable grounds to believe that a Person has contravened any provision of this Bylaw, the Enforcement Officer may commence proceedings against such Person by:
- (a) Issuing the Person a Violation Ticket pursuant to the provisions of Part 2 of the *Provincial Offences Procedure Act*; or
 - (b) Swearing out an Information and Complaint against the Person; or

Bylaw No. 818

- (c) In lieu of prosecution, issuing the Person a Bylaw Violation Tag.
22. Where an Enforcement Officer issues a Person a Violation Ticket in accordance with Section 21(a) of this Bylaw, the Officer may either:
- (a) allow the Person to pay the specified penalty as provided for the offence in Sections 18 and 19 of this Bylaw by including such specified penalty on the Violation Ticket; or
 - (b) require a Court appearance of the Person where the Enforcement Officer believes that such appearance is in the public interest, pursuant to the provisions of Part 2 of the Provincial Offences Procedure Act.
23. Where a Bylaw Violation Tag issued to a Person is not paid within 14 days of the date of issue, the Enforcement Officer may proceed by way of prosecution in accordance with Section 21(a) or 21(b) of this Bylaw.
24. No provision of this Bylaw nor any action taken pursuant to any provision of this Bylaw shall restrict, limit, prevent or preclude the Town from pursuing any other remedy in relation to a contravention of this Bylaw provided by the Municipal Government Act, or any other law of the Province of Alberta.

SEVERABILITY

25. Each provision of this Bylaw is independent of all other provisions. If any provision is declared invalid by a Court of competent jurisdiction, all other provisions of this Bylaw will remain valid and enforceable.

STRICT LIABILITY OFFENCE

26. It is the intention of Council that all offences created by this Bylaw be interpreted to be strict liability offences.

REPEAL

27. Bylaw No. 725 is repealed on the date that this Bylaw comes into force and effect.

EFFECTIVE DATE

28. This Bylaw shall come into force and effect upon it receiving third reading by the Council.

READINGS BY COUNCIL

READ a first time in Council this 24 day of October A.D. 2005.

Bylaw No. 818

READ a second and third time and passed in Council this 5 day of December A.D. 2005.

MAYOR

CHIEF ADMINISTRATIVE OFFICER