



TOWN OF BOWDEN
PROVINCE OF ALBERTA
 BYLAW 12/2001

BEING A BYLAW OF THE TOWN OF BOWDEN IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF PROHIBITING, ELIMINATING OR ABATING NOISE

WHEREAS, the Municipal Government Act, S.A. 1994, c.M-26.1, as amended, provides that the Council of a Municipality may pass a Bylaw respecting the safety, health and welfare of people and the protection of people and property, respecting people, activities and things in, or near a public place or place that is open to the public, and respecting nuisances;

AND WHEREAS, the Highway Traffic Act R.S.A. 1980, c.H-7, as amended, provides that the Council of a Municipality may make Bylaws defining what constitutes objectionable Noise, devising a system or method of determining or measuring that Noise, and prohibiting the operation of Motor Vehicles which in any manner make objectionable Noise;

NOW THEREFORE, the Council for the Town of Bowden in the Province of Alberta, duly assembled, enact as follows:

1. SHORT TITLE

This Bylaw may be cited as the Town of Bowden "Noise Control Bylaw".

2. DEFINITIONS

2.1 "Construction Equipment" includes a riveting machine, concrete mixer, gravel crusher, steam shovel, trenching machine, dragline, backhoe, air or steam compressor, jack-hammer or pneumatic drill, bulldozer, front-end loader, motor scraper, motor grader or any other tool, device, or machine of a noisy nature.

2.2 "Construction Noise" means Noise caused by Construction Equipment.

2.3 "Council" means the Council of the Town of Bowden.

2.4 "Development Officer" means a Development Officer/Engineering Technician, or designate for the Town of Bowden and whatever subsequent title may be conferred on that officer by Council or Statute.

2.5 "Holiday" means any day declared as such by Municipal, Provincial or Federal authority and includes Sundays.

2.6 "Land Use Bylaw" shall mean the Town of Bowden's Land Use Bylaw No. 01/2000, as amended.

2.7 "Motor Vehicle" means Motor Vehicle as defined in the Highway Traffic Act, R.S.A. 1980, c.H-7, as amended.

2.8 "Noise" means any sound which either annoys or disturbs Persons, or which injures, endangers or detracts from the comfort, repose, health, peace or safety of Persons within the boundary of the Town.

2.9 "Off-Highway Vehicle" means an Off-Highway Vehicles as defined in the Off-Highway Vehicle Act, R.S.A. 1980, c.0-4, as amended.

2.10 "Person" includes an individual, partnership, corporation, trustee, executor or administrator.

2.11 "Town" means the Town of Bowden.

2.12 "Town Bylaw Enforcement Officer" means a Bylaw Enforcement Officer appointed by the Town pursuant to the Municipal Government Act, S.A. 1994 c. M-26.1, as amended, to enforce the Town Bylaws, and includes a member of the Royal Canadian Mounted Police and, when authorized, a Special Constable.

2.13 "Violation Ticket" means a ticket issued pursuant to Part II of the Provincial Offences Procedures Act, R.S.A. 1988, c.P-21.5, as amended, and Regulations thereunder.

3. VIOLATIONS

3.1 Except to the extent permitted by this By-law, no Person shall cause or permit any other Person to:

- 3.1.1 cause a Noise within the Town;
- 3.1.2 operate or permit any other Person to operate within the Town, a Motor Vehicle which causes a Noise.
- 3.1.3 operate or permit any other Person to operate within the Town, an Off-Highway Vehicle which causes a Noise.

3.2 No Person shall allow property under their ownership or control to be used in such a way that there is Noise originating from the property.

3.3 A Town Bylaw Enforcement Officer may direct any Person who has caused or made a Noise, or any Person who owns or controls property from which Noise has originated, to abate or eliminate the Noise. Such a direction may be either verbal or written.

3.4 Where an activity which is not specifically prohibited by any federal, provincial or municipal laws or regulations, including this Bylaw and which involve reacting or making a sound which:

- 3.4.1 is or may become;
- 3.4.2 creates or produces or may create or produce;

a Noise, a Person engaging in such an activity shall do so in such a manner as to create as little sound as practicable under the circumstances.

4. PERMITS AND NON-APPLICATION OF BYLAW

4.1 The Development Officer may, upon written request, issue permission in writing to a Person for the purpose of suspending the provisions of this Bylaw, and the written permission shall specify the dates and hours during which Noise may occur (the "Permit").

4.2 The Development Officer may refuse to issue a Permit, or impose any term or condition upon a Permit.

4.3 The applicants for a Permit may appeal either:

- (a) the refusal of an issuance of a Permit; or
 - (b) a condition(s) of the Permit;
- to Council within thirty (30) days of the receipt of the refusal, or the receipt of the issuance of the Permit.

4.4 On appeal under either Clause 4.3(a) or 4.3(b), Council may refuse a Permit, confirm a Permit, issue a Permit upon any terms or conditions, or vary a term(s) of condition(s) of a Permit. The decision of Council is final.

4.5 Any such Permit issued shall be produced to a Town Bylaw Enforcement Officer upon demand.

4.6 Persons owning or controlling Construction Equipment, and Persons owning or controlling land on which Construction Equipment is being operated shall be exempt from the provisions of this By-law if:

4.6.1 the Noise is generated pursuant to work done in the normal manner to that industry;

4.6.2 the Noise is generated between the hours of 8:00 a.m. and 10:00 p.m. of any day excluding Holidays and between the hours of 10:00 a.m. and 10:00 p.m. on Holidays; and

4.6.3 all necessary federal, provincial and municipal permits, licenses and approvals have been obtained and the work is not contrary to any federal, provincial or municipal laws or regulations.

4.7 This Bylaw does not Apply:

4.7.1 to work carried on by the Town or its agents, contractors, servants or employees, acting within the scope of their agency, contract, or employment, as the case may be; or

4.7.2 to the performance of any industrial activity by any Person on land where:

4.7.2.1 the industrial activity is:

- (a) a permitted use within Districts and under the Land Use Bylaw;
- (b) is an approved discretionary use within Districts and under the Land Use Bylaw; or
- (c) is a non-conforming use as defined in the Municipal Government Act

4.7.2.2 the Noise is generated pursuant to work done in the normal manner to that end; and

4.7.2.3 the work does not otherwise contravene any federal, provincial or municipal laws or regulations.

4.7.3 to Persons using domestic equipment including lawnmowers, snow blowers, garden tillers and built-in vacuum cleaners which are vented to the outside, and Persons owning or controlling property upon which such equipment is used if:

4.7.3.1 the Noise is of a temporary or intermittent nature;

4.7.3.2 the equipment is properly maintained and operated in a normal manner for that type of equipment; and

4.7.3.3 the Noise occurs between the hours of 8:00 a.m. and 10:00 p.m. of any day and between the hours of 10:00 a.m. and 10:00 p.m. on Holidays;

4.7.4 to Persons using air conditioning and cooling units in either domestic or commercial use if the units are properly maintained and are operated in a normal manner.

5. AUTHORIZATION TO INSPECT

5.1 A Town Bylaw Enforcement Officer may enter any land, building or premises to inspect for conditions that may constitute a contravention of this Bylaw.

5.2 A Town Bylaw Enforcement Officer has reasonable and probable grounds to believe a violation of this Bylaw exists, he may enter any dwelling house or property with a warrant and may seize any articles making or creating a Noise and any articles he believes may have been used in the commission of any violation of this Bylaw.

6. PENALTIES

6.1 Any Person who contravenes any provision of this Bylaw is guilty of an offence and is liable to a penalty as specified in Schedule "A" to this Bylaw.

7. VIOLATION TICKETS

7.1 A Town Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Ticket to any Person who the Town Bylaw Enforcement Officer believes has contravened any provision of this By-law.

7.2 Where a contravention of this Bylaw is of a continuing nature, further Violation Tickets may be issued by a Town Bylaw Enforcement Officer in respect of each day or part of day on which it continues.

8. SEVERABILITY PROVISION

8.1 Should any provision of this Bylaw be invalid, then such provision shall be severed and the remaining Bylaw shall be maintained.

9. EFFECTIVE DATE

9.1 Bylaw No. 695 is hereby repealed

9.2 This Bylaw shall come into effect upon third and final reading.

Read a first time this _____ day of _____,
2001

Read a second time this ____ day of _____,
2001

Read a third time and finally passed, this _____ day of _____,
2001

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