



Town of Bowden
Box 338, 2101 20th Ave
Bowden, Alberta, T0M 0K0

Town of Bowden – Province of Alberta
NOISE CONTROL BYLAW
07 / 2024 (1st reading of Council)

Whereas the Municipal Government Act, RSA2000, Chapter M-26 provides that Council may pass bylaws for municipal purposes respecting the following matters:

- i. safety, health and welfare of people, and the protection of people & property,
- ii. people, activities, and things in, on or near a public place or place that is open to the public,
- iii. nuisances,
- iv. transport and transportation systems.

And whereas the Municipal Government Act authorizes a municipality to pass enactments that:

- i. provide for the enforcement of bylaws,
- ii. impose penalties, fees, and charges,
- iii. allow for the remedying of contraventions of bylaws,
- iv. provide for inspections to determine if bylaws are being complied with,
- v. provide for a system of licences, permits or approvals (including the imposition of terms and conditions that must be satisfied in order to receive or keep such licences, permits or approvals).

And whereas the Traffic Safety Act, RSA2000, Chapter T-6 provides that the Council of a Municipality may pass bylaws with respect to highways under its direction, control, and management including but not limited to:

- i. use of highways,
- ii. parking of vehicles,
- iii. vehicle noise,
- iv. impounding vehicles.

And whereas it is deemed expedient and desirable for the Town of Bowden to prohibit certain activities in order to maintain standards of public order in order to ensure the right to quiet peaceful enjoyment of all residents within the Municipality:

Now therefore, the Municipal Council of the Town of Bowden hereby enacts as follows:

1 SHORT TITLE

This bylaw may be known as, and cited as, the “Noise Control Bylaw”.

2 PURPOSE

To promote responsible neighbourly behaviour and to provide and establish by bylaw regulations for the control of noise, and other matters that may adversely affect reasonable standards of living and so as to maintain standards of public order ensuring residents enjoy a right to quiet peaceful enjoyment within the Municipality.

3 DEFINITIONS

In this bylaw the following definitions apply:

Acceptable

Means to satisfy a tolerable, satisfactory, or socially agreeable requirement or standard.

Authorized Person

Means any person appointed to act on behalf of the Town of Bowden.

Bylaw

Means this bylaw, and all other Town bylaws made pursuant to the authority of the MGA, and includes any regulation, enactment or policy made pursuant to the authority of this or any other Town bylaw.

CAO (Chief Administrative Officer)

Is the person appointed by Council into the position of Chief Administrative Officer for the Town of Bowden in accordance with the MGA and is the administrative head of the Municipality (and includes any person given designated responsibilities by the CAO).

Designated Officer

Means a person to whom the CAO has delegated powers, duties or functions as permitted under the authority of the MGA or any other person with powers enabled under any other order or enactment, including but not limited to:

- a) any person appointed by the Town as a Bylaw Enforcement Officer,
- b) a Red Deer County Inspector or Officer empowered under an intermunicipal collaboration agreement,
- c) any Inspector appointed by a Minister with responsibilities defined or authorized under enactment,
- d) any person by virtue of appointment to another office, including but not limited to, RCMP Officers, Customs & Excise Officers, a Peace Officer (contracted or otherwise), a Sheriff or Fish & Wildlife Officer.

Excessive

Means an amount too great to be considered reasonable or acceptable, ie: exceeding what is usual, proper, necessary, or normal.

Highway

Means means a highway as defined by the Traffic Safety Act, RSA2000, c. T-6 including, but not limited to:

- a) a thoroughfare, street, road, service road, trail, avenue, parkway, driveway, lane, alley, square, or other place or any part of any of them, whether publicly or privately owned, that the public is ordinarily entitled or permitted to use,
- b) a sidewalk, including a boulevard or easement adjacent to the sidewalk,
- c) any ditch or culvert that lies adjacent to and parallel with the highway.

MGA

Means the Municipal Government Act, RSA2000, Chapter M-26, (as amended over time).

Municipality

Means the Town of Bowden.

Noise

Means sound, which in the opinion of the CAO or a Designated Officer of the Town, with regard to all contributing factors and circumstances including the time of day and the nature of the activity generating the sound, which is likely to unreasonably annoy or disturb a person(s) or to injure, endanger or detract from the comfort, health, peace, or safety of residents or other persons within the Town.

Nuisance

Means any act or deed, or omission, or thing, which in the opinion of the CAO, or Designated Officer is, or could reasonably be expected to be annoying, harassing, unpleasant, troublesome, destructive, harmful, inconvenient, or injurious to another person and / or their property, including but not limited to:

- a) any activity that unreasonably interferes with the use and enjoyment of any public place, building, park, or highway,
- b) any activity that unreasonably interferes with the use and enjoyment of a private property,
- c) any activity that causes injury or harm to the health, comfort, or convenience of an occupier of a public or private property.

Occupant

A person (other than an owner) occupying or exercising control over, or having right to occupy or exercise control over, land or property or buildings either as a tenant or lessee for the purpose of residential or commercial activity under agreement with the owner of the land or property or buildings.

Owner (of a Property / Premise)

Means the person who is:

- a) the registered / legal owner of a property or premise,
- b) an authorized occupier of a property or premise,
- c) the person who has lawful possession of a property or premise,
- d) the person who has the right to exercise control over a property or premise,
- e) in control or development of a property or premise under construction.

Person

A person occupying or exercising control over, or having right to occupy or exercise control over, land or property or buildings or an animal or a vehicle and includes:

- a) an individual (resident / non-resident or visitor),
- b) a legal entity or business entity, including a firm, developer, contractor, association, partnership, society, or corporation,
- c) unless the context otherwise requires, this does not include the Town.

Power Tool

Includes any tool powered by an engine, or motor or battery or compressed air.

Premise

Means any building or structure or any part of portion of a building or structure, including any land used in connection with that building or structure for the purposes of:

- a) providing parking for vehicles,
- b) displaying or storing vehicles, equipment or other articles or things,
- c) enhancing the appearance or use of the building or structure,
- d) carrying out activities that are ancillary to the activities carried in or on that building or structure.

Property

Means:

- a) any public or private land,
- b) any building or structure (either residential or non-residential / occupied or unoccupied),
- c) both or part of a) & b),

situated within the Municipality.

Provincial Offences Procedure Act

Means the Provincial Offences Procedure Act, RSA2000, Chapter P-34.

Public Property (or Public Place)

Means any place within the Town to which the public may have either express or implied public access including, but not limited to, a highway, street, road, trail, lane, alley, sidewalk, boulevard, school, playing field, park, playground, public building and / or any fixture or object located in a public place.

Pursuant to

Means to execute, carry out or investigate an activity in accordance with the requirements of a statute, ruling, policy, order, or request.

Reasonable (unreasonable)

Means to satisfy a tolerable, satisfactory, or agreeable requirement or standard or to satisfy the time by which an action must be carried out.

Red Deer County

Means the municipal corporation of Red Deer County in the Province of Alberta.

Remedial Order (or order)

An order to remedy contraventions issued in accordance with sections 545 & 546 of the MGA.

Residential District

Means an area (as defined by the Town of Bowden Land Use Bylaw) zoned as R1, R1A, R2, R3, R4 and PFR.

Sound Equipment

Means any sound amplification device, (including but not limited to, radio, television, music system, public address system).

Specific Penalty

Means an amount payable in respect of offences in accordance with this bylaw.

Town

Means the municipal corporation of the Town of Bowden in the Province of Alberta.

Unacceptable

Means to not satisfy a tolerable, satisfactory, or socially agreeable requirement or standard.

Vehicle

Means any device in, on or by which a person or thing may be transported or drawn on a highway, including, but not limited to, passenger cars, commercial vehicles, recreational vehicles, self-propelled vehicles, restricted use vehicles, farm equipment, construction equipment (wheeled or tracked), school buses, trailers, all-terrain vehicles, off highway vehicles, utility terrain vehicle, motorcycles, bicycles, and electric vehicles.

Vehicle Noise

Means any sound or noise caused by or emanating from a vehicle that is excessive, unacceptable or which creates a nuisance including but not limited to:

- a) the squealing of tires,
- b) the revving of an engine,
- c) loud acceleration,
- d) loud or excessive noise,
- e) sound from a music system, radio or speaker system.

Words (interpretation)

- a) “may” is to be interpreted as permissive (allowed but not obligatory, optional).
- b) “must” is to be interpreted as imperative (obligatory, mandatory, required, unavoidable).
- c) “shall” is to be interpreted as “must”.
- d) “should” is to be interpreted as a recommended (desirable, not required to conform).
- e) “Including but not limited to” means when listing a number of items, does not limit the bylaw term to only those words or those items listed.

4 GENERAL PROVISIONS & PROHIBITIONS

4.1 General

4.1.1

No person shall make, continue to make, cause, permit, or allow any unacceptable or excessive noise that is likely to annoy or disturb a person(s) or to injure, endanger or detract from the comfort, health, peace, or safety of other persons within the Town.

This includes, recreational, occupational, promotional, DIY, construction, industrial and vehicle noise except where temporarily approved, relaxed, or permitted by the CAO / Town.

4.1.2

No person, either owner or occupant, shall permit property to be used (that they own or occupy) so that an unacceptable or excessive noise is created that would create a nuisance.

4.1.3

No person shall conduct or promote any activity in, on, near to, or in view of, any public property, public place or private property that in doing so creates unacceptable noise.

4.1.4

No person shall promote any public event, performance, concert, or exhibition that may generate unacceptable levels of noise without the written permit or authority of the CAO.

4.1.5

No person shall use, operate, permit, or allow to be used any sound equipment, loudspeaker system, public address system or other broadcasting system so as to create an unacceptable or excessive noise or disturbance, or nuisance, whether indoor, outdoors or on private or public property.

4.1.6

Air Conditioning & HVAC systems in either domestic or commercial properties must be properly maintained and operated in a normal manner so as not to create any excessive noise.

4.2 Vehicles

4.2.1

No person shall use, operate, permit, or allow to be used any vehicle so as to create an unacceptable or excessive noise or disturbance whether on private or public property, including but not limited to, repair / maintenance work, revving the engine, engine retarder brakes, or from sound equipment installed within the vehicle.

4.2.2

A person who owns, occupies, or who has control of a vehicle must not at any time allow the vehicle to remain continuously running for longer than 20 minutes when it is stationary in a residential district.

4.2.3

No person may conduct any repair work on a vehicle, including but not limited to mechanical repairs, welding or modifications in a residential district so that it creates a nuisance or unacceptable level of noise.

4.2.4

No person may activate or apply engine retarder brakes within Town limits.

4.3 Industrial / Construction / Maintenance Noise

4.3.1

No person shall use, operate, permit, or allow to be used any hand tool, power tool, garden tool (including but not limited to, lawnmowers, tillers, leaf blowers), machinery, or equipment (including but not limited to, snow blowers, compressors, and generators), so as to create an unacceptable or excessive noise or disturbance during the hours of 10:00pm until 8:00am during any day.

4.3.2

Private contractors carrying out snow removal must ensure that noise abatement practices are followed between the hours 10.00pm and 8.00am in a manner that is least disruptive to residents.

Snow removal between the hours of 6:00am and 8:00am is allowed in Commercial and Industrial designated land use districts (ie: nonresidential areas) including major highway and main road routes.

4.3.3

In the operation or carrying out of an industrial activity the person / organization operating or carrying on the activity shall make no more noise than is necessary in the normal method of performing or carrying on that activity.

4.4 Animal Noise

Animal noise restrictions are addressed through the provisions of the Town's Animal Control Bylaw.

4.5 Exceptions

4.5.1

The regulation of noise, does not apply to:

- i. Town / Council approved operations and procedures,
- ii. the temporary relaxation of any provision of this bylaw authorized by the CAO or a Designated Officer due to special circumstances, (for example, the operation of snow removal equipment within a 48-hour period following a heavy snowfall, etc),
- iii. the temporary relaxation of any provision of this bylaw by the CAO or a Designated Officer for approved special events, (including but not limited to, parades, firework displays, concerts, rodeo events, etc),

- iv. Town operations or emergency work carried out by the Town or contractors employed by the Town,
- v. emergency service vehicles, (whether responding to an emergency or training),
- vi. commercial equipment, including but not limited to, excavators or bobcats while operating in the normal course of their work or bona fide activity,

4.5.2

The regulation of noise, does not apply to the operation of an industrial or commercial activity where the activity is one which:

- i. is an approved permitted use,
- ii. is an approved discretionary use,
- iii. the temporary relaxation of any provision of this bylaw authorized by the CAO due to special circumstances,

providing noise levels are not greater than what is necessary or customary in the normal method or process of performing or carrying on of that industrial or commercial activity, and, all necessary permits, licenses, and approvals have been obtained in accordance with any other enactment or Town bylaw.

4.5.3

The regulation of noise, does not apply to persons using domestic equipment (lawnmowers, snow blowers, hand tools) only if:

- i. the noise is of a temporary or intermittent nature,
- ii. the equipment is properly maintained and operated in a normal manner for that type of equipment,
- iii. the noise does not occur between the hours of 10:00pm until 8:00am.

4.5.4

The regulation of noise, by the provisions of this bylaw, does not apply to:

- i. Federal or Provincial agencies,
- ii. noise created by vehicles as traffic on Provincial highways,
- iii. railway related noise created by Canadian Pacific Railway (and their sub-contractors).

5 DESIGNATION OF AUTHORITY

5.1

Council authorizes the CAO to conduct all actions necessary in order to fulfill the responsibilities and duties legislated under any statutory enactment, regulation, order, this bylaw, or any other Town bylaw.

5.2

Without limitation, The CAO is empowered to provide for:

- i. administering the enforcement of the provisions of this bylaw,
- ii. granting licenses, approvals and permissions as set out in this bylaw,
- iii. approving exemptions to this bylaw
- iv. imposing penalties or waiving penalties where appropriate or necessary
- v. undertaking additional actions as deemed necessary in the public interest.
- vi. any action or decision deemed as being reasonably practicable.

The provisions within any section of this bylaw where relevant do not apply in cases where there is a temporary relaxation of any provision made by the Town CAO or a Designated Officer due to special circumstances or other special arrangements.

5.3

The Town may establish rates, charges, penalties, or fees for any costs incurred or material used for remedial purposes including non-specific infractions of any part of this bylaw

5.4

The CAO may delegate powers to Designated Officers as deemed appropriate or necessary.

5.5

No person may obstruct, interfere with, or hinder any official, the CAO, or a Designated Officer of the Town, in the carrying out of their duties and responsibilities under this bylaw, or any other enactment, order, or Town bylaw.

5.6

A Designated Officer may conduct patrols within the Town for the purpose of enforcing the provisions of this bylaw.

5.7

The CAO may declare any activity where noise is generated to be deemed as being:

- i. a nuisance,
- ii. unacceptable,
- iii. excessive,
- iv. unreasonable,

as necessary, or appropriate, in order to fulfill the provisions of this bylaw or to act responsibly in the best interests of the community.

5.8

Consideration on what determines unacceptable or excessive noise includes:

- i. the type, volume, and duration of the sound / noise,
- ii. the time of the day and day of the week,
- iii. proximity of the sound to other sleeping facilities, whether residential or commercial,
- iv. the nature and use of the surrounding area,
- v. whether the sound is recurrent, intermittent, or constant,
- vi. any other relevant factor.

5.9

The Town may issue a written warning that:

- i. directs a person to take action to remedy any contravention of this bylaw,
- ii. states the action the Town will take to remedy the contravention.

This may lead to the issue of:

- i. a specific penalty for contravention of a provision or for an offence as identified within this or any other Town bylaw,
- ii. an unspecified administrative penalty for infractions of any part of provision of this bylaw,
- iii. the issue of a remedial order to remedy the infraction (in accordance with Part 13, Division 4, Enforcement of Municipal Law of the MGA),
- iv. civil proceedings through the courts,
- v. any or all of i) to iv) above.

5.10

Not every matter can be addressed through regulation within this bylaw.

In the interest of minimizing any misunderstanding and maintaining harmonious community relationships, all persons should liaise directly with the Town on any noise related matter that may create a nuisance or adversely affect community living.

6 DELEGATION OF AUTHORITY

Section 708 of the MGA allows for an Intermunicipal Collaboration to provide for the delivery and funding of intermunicipal services.

The Town of Bowden and Red Deer County have entered into a Municipal Services Agreement that allows Red Deer County to provide the following services:

- i. Fire & Rescue,
- ii. Weed Control,
- iii. Road Maintenance,
- iv. Road Traffic Enforcement,
- v. Bylaw Enforcement,
- vi. Building Safety & Fire Codes.

Red Deer County Officers are empowered under the joint Municipal Services Agreement and this bylaw to conduct all actions necessary in order to fulfill the responsibilities and duties legislated under any statutory enactment, regulation, order, this bylaw, or any other Town bylaw or Town policy where applicable or relevant within the Town of Bowden municipal boundaries.

7 LIABILITY & APPEAL

7.1

No action for damages shall be taken against the Town or any Designated Officer acting under the authority of this bylaw or the enforcement of the provisions of this bylaw or any other statutory enactment or order.

7.2

Any penalty or order issued under this bylaw shall not affect or remove in full or part any liability for claims or damages that may arise under a civil action brought to a Court in relation to an offence committed under this bylaw or any other enactment.

7.3 Right of Appeal

Any person who considers themselves to be aggrieved by a decision of the CAO (or a Designated Officer of the Town) made under this bylaw may appeal the decision in accordance with the appeal procedures stated within Bylaw Enforcement Policy 05 / 2023.

8 APPLICABILITY

8.1

This bylaw applies to all persons present within the Town.

8.2

No person shall obstruct, hinder, or interfere with any person while exercising or performing their duties or powers pursuant to the provisions of this bylaw, or any other enactment.

8.3

Exceptions (either permanent or temporary) to any provision within this bylaw:

- i. are at the discretion of the CAO, due to special circumstances, arrangements or need,
- ii. are as stated in this bylaw,
- iii. may apply to any Designated Officer or person acting under authority, or agreement or in the normal course of their official duties, for example: Peace Officers, RCMP, Fire Department.

8.4

Any person who contravenes any provision of this bylaw, by negligence, or by doing any act or thing which is prohibited, or by failing to do any act or thing that is required, is guilty of an offence in accordance with this bylaw or any other enactment.

8.5

Under Provincial legislation (Provincial Offences Procedures Act), the provision of the Criminal Code extends liability beyond the person who committed the offence as follows:

Persons are deemed party to an offence who:

- i. actually commit the offence,
- ii. do anything for the purpose of aiding a person to commit an offence, or,
- iii. abet any person in committing an offence.

8.6 Proof of Exception

In cases where a person alleges that an exception to the provisions of this bylaw applies, the burden of proof remains with that person, on a balance of probability.

8.7

Nothing in this bylaw (either by inclusion or omission) exempts any person from any statutory enactment, regulation, code, or Ministerial Order, including but not limited to the:

- i. Criminal Code of Canada,
- ii. Municipal Government Act, RSA2000, Chapter M-26,
- iii. Traffic Safety Act, RSA2000, Chapter T-6, (and all Regulations part of),
- iv. any other applicable or relevant Town of Bowden Bylaw, policy, directive, or order.

8.8

All references in this bylaw to an act, statute, regulation, or other bylaw refer to the current version of that enactment, as amended or replaced from time to time including all successor legislation.

8.9

All schedules attached to this bylaw form part of this bylaw.

9 SEVERABILITY

Every provision of this bylaw is independent of all other provisions. If any provision of this bylaw is declared invalid for any reason by a Court of competent jurisdiction, all other provisions of this bylaw shall remain valid and enforceable.

10 BYLAW PRECEDENCE

This bylaw supersedes and takes precedence over all previously passed bylaws that make reference to matters of noise and noise control.

Noise Control Bylaw 12-2001 and all amendments thereto are hereby repealed

This bylaw will come into effect on the final day of passing and signature thereof.

Read a first time in open council this 26 day of August 2024,

Read a second time in open council this ** day of __ 2024__,

and finally passed by unanimous consent of the Councillor's present.

Read a third time in open council this ** day of __ 2024__,

Robb Stuart, Mayor

Arno Glover, Chief Administrative Officer

Noise Control Bylaw SCHEDULE A Enforcement & Penalties

A1

Any contravention of any provision of this bylaw may be enforced by the provisions contained within the MGA (Division 4, Enforcement of Municipal Law), the Provincial Offences Procedures Act, R.S.A. 2000 Chapter P-24 or any other enactment or order where valid and enforceable.

A2

Any person who:

- i. contravenes a provision of this bylaw is guilty of an offence,
- ii. fails to do any act or thing a person is required to do, is guilty of an offence.

A3

This may lead to the issue of:

- i. a verbal or written warning,
- ii. a violation ticket for a specific penalty for the contravention of a provision of this bylaw in accordance with the Provincial Offences Procedures Act,
- iii. an unspecified penalty of a variable amount of not less than \$250.00 up to a maximum of \$10000.00 for any general contravention of this bylaw as either a penalty fee, surcharge, late payment charge and / or for the compensation for damages or the recovery of costs,
- iv. any or all of i) to iii) above.

A4

This bylaw is enforceable either by the CAO or a Designated Officer.

A5 Specific Penalties

Bylaw Reference	1 st offence	repeat offence(s)
Part 4.1 General Provisions	\$250.00	\$500.00
Part 4.2 Vehicle Noise	\$150.00	\$300.00
Part 4.3 Industrial, Construction & Maintenance Noise	\$250.00	\$500.00

A6

All persons must rectify the circumstances which give rise to an offence within the stipulated time period. Any continuance thereafter shall be deemed to be a new (subsequent) offence incurring further additional penalties.

A7 Administrative Penalties

Administrative penalties are monetary penalties that are applied at the discretion of the CAO if it is determined that legislative or regulatory requirements have been contravened.

Any person who contravenes any provision of this bylaw (other than those specific penalties listed in A5) will be subject to an unspecified penalty (as stated in A3 iii) the actual amount of which will be determined and applied at the discretion of the CAO.

These penalties can vary and reflect the seriousness of the contravention.

Administrative penalties are determined by the CAO on a case-by-case basis.

Factors that are considered in deciding the amount of an administrative penalty are:

- i. the severity of the contravention and the scale of adverse effects caused by it,
- ii. the degree of willfulness or negligence in the contravention,
- iii. what steps have been taken to prevent the contravention or its reoccurrence.

Administrative penalties are intended for more serious bylaw contraventions with the maximum fine determined by the CAO subject to any maximum amount imposed by the MGA (currently \$10,000.00).

A8

All persons are responsible for all costs associated with the implementation of any measures taken, or required to be taken, by the Town (or any other regulatory body) to meet the provisions of this bylaw or for any,

- i. remedial action,
- ii. recovery of costs.

A9

Any penalty issued under this bylaw does not affect or remove in full or part any liability for damages that may arise under a civil action brought to Court in relation to an offence committed under this bylaw or any other enactment.

A10 Enforcement.

A10.a

A written or verbal warning informs the recipient that they are contravening a specific legislative or regulatory requirement and will recommend a course of action to achieve compliance.

A Remedial Order may be issued to remedy the infraction in accordance with section 545 of the Municipal Government Act.

Written and verbal warnings create a formal record of non-compliance and in cases where a warning is ignored or repeated this may lead to an escalated enforcement response.

A10.b

A bylaw violation ticket for a specific penalty for the contravention of a provision of this bylaw is a form of prosecution under the Provincial Offences Procedures Act, that allows the Town to deal effectively with easily observable cases of non-compliance.

A10.c

The Town's enforcement model follows a general approach (knowing, however, that each situation may have unique circumstances which may require a different approach to be taken) which is typically as follows:

- i. communication,
- ii. education,
- iii. collaboration,
- iv. compliance.

It is the policy of the Town to work considerably in collaboration with all parties on any matter that adversely affects community living in order to arrive at an effective and agreeable solution.

Our overall philosophy historically has been (and continues to be) to resolve issues or complaints received through a process of community engagement and education with the overall aim to ensure that all bylaws are followed by everyone for the benefit of all residents within our community.

A10.d

Reference should be made to the Town of Bowden Bylaw Enforcement Policy 05 / 2023