

MUNICIPAL DISTRICT OF BIG LAKES

BYLAW 7-99

Being a bylaw of the Municipal District of Big Lakes, in the Province of Alberta to prohibit activities creating noise and to prohibit excessive noise.

WHEREAS, Section 7 of the Municipal Government Act provides that the council of a municipality may pass bylaws for the purpose of prohibiting, eliminating or abating noise, and establishing permissible noise levels for all or varying periods of the day, in all or a designated part or location of the municipality.

NOW THEREFORE, the Council of the Municipal District of Big Lakes enacts as follows:

1. This bylaw may be cited as the Noise Control Bylaw.”
2. In this bylaw, including this section,
 - a) “COURT” means the Provincial Court of Alberta;
 - b) “MUNICIPALITY” means the Municipality of the Municipal District of Big Lakes and the area contained within its boundaries as the context requires;
 - c) “PEACE OFFICER” means a member of the R.C.M.P. or a Municipal District of Big Lakes Special Constable;
 - d) “RESIDENTIAL BUILDING” means a building, which is constructed as a dwelling for human beings and includes a hotel.

GENERAL PROHIBITION

3.
 - a) Except to the extent it is allowed by this bylaw, no person shall make, continue, cause to be made or allow to be made or continued any loud, unnecessary or unusual noise or any noise whatsoever which unreasonably either annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons within the boundaries of the Municipal District of Big Lakes. There should be a marked departure from the norm of which would offend a reasonable person given all of the circumstances.
 - b) “Loud Noise” is any excessive noise other than noise which is associated with normal agricultural or industrial pursuits, which disturbs, annoys or endangers the comfort, repose, health, peace or safety of others.

- 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 involves creating or making a sound which
 - i) is or may become, or
 - ii) 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 or persons 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.

CONSTRUCTION NOISES

- 4. Unless written permission from the proper designate of the municipality is obtained;
 - a) No person shall carry on the construction of any type of structure which involves hammering, sawing or the use of mechanical tools or equipment capable of creating a sound which may be heard in any residential subdivision beyond the boundaries of the site on which the activity is being carried on after the hour of eleven o'clock in the evening of any day.
 - b) This section does not apply to a bona fide farmer in the process of carrying out farm operations nor any person with a Development Permit, which may permit that person to carry out a development so described.
 - c) Notwithstanding any other provisions of this bylaw, nothing in this bylaw shall prevent or prohibit the operation or carrying on of an industrial activity or the performance or carrying on thereof during the day or night or any part thereof in any area classed as an industrial district where the activity is one which
 - i) is a permitted use as is defined in the Municipal Land Use Bylaw for the municipality in which the use is being carried on, or is a discretionary use for which the required permission has been granted pursuant to such bylaw;
 - ii) is a non-conforming use as is defined in the Municipal Land Use Bylaw for the municipality in which the use is being carried on.
 - d) In the operation or carrying on of an industrial activity cited in subsection (1), the person operating or carrying on that activity shall make no more

noise than is necessary or customary in the normal method of performing or carrying on of that activity.

5. When a Peace Officer has reasonable grounds to believe a violation of this bylaw exists, he may enter, without a warrant, any dwelling or 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.
6. Any noises-making devices or items seized and confiscated under Section 8 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.
7. 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.
8.
 - a) Except as otherwise provided in Section 9, a person shall not use or operate or allow to be used or operated loudspeakers, public address systems, or other devices for the amplification of sound or musical instruments or devices.
 - b) Where a person occupies premises abutting a highway, he shall not operate or allow to be operated a device or instrument mentioned in subsection "a" of this section, at such a pitch, intensity or volume that its sound creates an annoyance on the highway.
 - c) Where a person occupies premises abutting a highway, he shall not make or cause to be made or allow another person within or upon the premises to make any unusual or unnecessary noise which will disturb or is likely to disturb persons in his neighbourhood or apartment building, whether of his own volition or because of a party or gathering on his premises between the hours of 12:01 o'clock a.m. and 7:00 o'clock a.m.
 - d) Subject to the provisions of Section 4, a person shall not advertise a sale, auction, exhibition or entertainment, a religious or political assembly or any other event or occurrence, whether similar or dissimilar by shouting, crying aloud, blowing a horn or other instrument or by the creation of a disturbance or noise on or in audible distance from a highway.
 - e) Except as otherwise provided in Section 4, no person shall operate or allow to be operated construction equipment of any kind between the hours of 11:01 o'clock p.m. and 7:00 o'clock a.m.
 - f) No person shall permit the engine of a motor vehicle of a maximum allowable weight or licensed weight of over 7000 kg. (1 ton) to run for a

period of time in excess of thirty (30) minutes in any residential area between the hours of 11:01 o'clock p.m. and 7:00 o'clock a.m.

9. Council or the Chief Administrative Officer may grant written permission to any person for the use of loudspeakers, public address systems, or other devices for the amplification of sound or musical instruments or devices or the like with conditions such that the noise created will not unduly interfere with the health, peace and safety of others.
10. No provision of this bylaw shall apply to or be interpreted to prevent:
 - a) the ringing of bells in churches, religious establishments and schools,
 - b) the sounding of a general or particular alarm or warning to announce a fire or other emergency or disaster,
 - c) sounding of sirens on emergency response units,
 - d) the sounding of horns on motor vehicles and bicycles lawfully upon the streets for the purpose of and to the extent necessary to give signals or warnings to persons and vehicles using the highways.
11. No one shall carry on activities or allow activities which create excessive noise other than noise associated with industry or agriculture which may be heard in any residential subdivision or hamlet after 11:00 p.m. Upon investigation of any complaint and ascertainment of excessive noise, the Peace Officer will give one warning. Subsequent complaints during the same time frame will be issued citations and will be assessed a fine.

PENALTIES

12. The council hereby prescribes the specified penalty payable in respect of a contravention of this bylaw shall be as stipulated in paragraph 13 of this bylaw.
13. Every person who contravenes any provision of this bylaw is guilty of an offence and liable on summary conviction:
 - a) for a first offence to a fine of \$100.00 exclusive on costs;
 - b) for a second offence to a fine of \$200.00 exclusive of costs;
 - c) for a third and subsequent offence to a fine of \$400.00, exclusive of costs.
14. For the purposes of procedure and prosecution under this bylaw the provisions of the Criminal Code, respecting summary conviction the Canada and Alberta Interpretation Act, the Municipal Government Act of the Revised Statutes of

Alberta and the Provincial Offences Procedure Act of the Revised Statutes of Alberta, and amendments thereto are hereby adopted.

15. A certificate or document signed by the chief administrative officer or his designate stipulating any particular relative to this bylaw shall be admitted in evidence as prima facie proof of the facts stated in the certificate or document, without further proof of the signature or authority of the person signing the certificate.

This bylaw comes into effect upon final passing.

Read a first time this _____ day of _____, A.D., 1999

Read a second time this _____ day of _____, A.D., 1999

Read a third time and finally passed this _____ day of _____, A.D., 1999

Reeve

Chief Administrative Officer

Date of Final Signature