

COUNTY OF WARNER NO. 5
BYLAW NO. 873-09

A BYLAW OF THE COUNTY OF WARNER NO. 5, IN THE PROVINCE OF ALBERTA, TO PROHIBIT ACTIVITIES CREATING NOISE AND TO PROHIBIT EXCESSIVE NOISE.

WHEREAS,

The Municipal Government Act being Chapter M-26, RSA 2000 and amendments thereto, provides authority to pass bylaws to regulate the safety, health and welfare of people and the protection of people and property; and, wild and domestic animals and activities in relation to them; and with relation to the enforcement of those bylaws create offences, set fees and impose fines;

AND 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 County of Warner No. 5 respecting the following matters:

- a. The enforcement of bylaws made under the *Municipal Government Act* or any other enactment including any or all of the following:
 - i. The creation of offences;
 - ii. For each offence, imposing a fine not exceeding \$10,000 or imprisonment for not more than one year, or both;
 - iii. Providing for imprisonment for not more than one year for non- payment of a fine or penalty;
 - iv. Providing that a person who contravenes a bylaw may pay an amount established by the bylaw and if the amount is paid, the person will not be prosecuted for the contravention;
 - v. Providing for inspections to determine if bylaws are being complied with;
 - vi. Remediating contraventions of bylaws;

NOW THEREFORE,

The Council of the County of Warner No. 5 enacts as follows:

1. **TITLE**

- a. This bylaw may be cited as the "Noise Control Bylaw".

2. **DEFINITIONS**

- a. "COUNTY"- means the County of Warner No. 5
- b. "COURT"- means the Provincial Court of Alberta;
- c. "PEACE OFFICER"- means a Member of the Royal Canadian Mounted Police or a County of Warner No. 5 Community Peace Officer. Any reference to gender will mean either a male or female officer.
- d. "RESIDENTIAL BUILDING"- means a building, which is constructed as a dwelling for human beings and includes a hotel, motel or inn.
- e. "PERSON"- means and/or includes a corporation and the heirs, executors, administrators or other legal representatives of a person, and owner/occupier or person apparently in charge.

- f. "SUMMONS"- means a violation ticket issued pursuant to Part II of the Provincial Offences Procedures Act, S.A. 2000, c. P-34, as amended and Regulations there under.
- g. "VIOLATION TICKET"- means a form prescribed by the Province or County and will be used by the County pursuant to the Municipal Government Act, R.S.A.2000, c. M-26, as amended.

3. REGULATIONS

- a. General Prohibition - 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 continue 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 County. There should be a marked departure from the norm, which would offend a reasonable person given all of the circumstances.
- b. "Loud Noise" means 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. "Loud Noise" also means an "unnecessary noise", or an "unusual noise" or a noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others. These definitions may be used, in a question of fact, for a court of competent jurisdiction which hears a prosecution of an offence against this bylaw.
- c. Where an activity, which is not specifically prohibited or restricted by a 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. 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.
- d. Unless written permission from the County Administrator, or their designate, is obtained, no person shall carry on construction on any type of structure which involves hammering, sawing or the use of any mechanical tools or equipment capable of creating a sound, which may be heard in any residential area/subdivision beyond the boundaries of the site, on which the activity is being carried on, between the hours of 11:00 p.m. and 7:00 a.m.
- e. Amplification Equipment
 - i. Except as otherwise provided in Section 3(e)(v), a person shall not use or operate, or allow to be used or operated, loudspeakers, public address systems, other devices for the amplification of sound or musical instruments or devices.
 - ii. Where a person occupies premises abutting a highway, he shall not operate or allow to be operated, a device or instrument mentioned in Section 3(e) of this section, at such a pitch, intensity or volume that its sound creates an annoyance on the highway.

- iii. Where a person occupies premises abutting a dwelling, 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 neighborhood or apartment building, whether of his own violation or because of a social gathering on his premises between the hours of 12:00 midnight, and 7:00 am.
 - iv. 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.
 - v. Council, the County Administrator or designate 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.
- f. No person shall permit the engine of a motor vehicle making a loud noise to run for a period of time in excess of (15) minutes in any urban fringe area between the hours of 11:00 p.m. and 7:00 a.m.
- g. No persons shall carry on activities, which create excessive noise, other than noise associated with industry or agriculture, which may be heard in any lands zoned as group country residential or hamlet between 11:00 p.m. and 7:00 a.m. Upon investigation of any complaint and ascertainment of excessive noise, the Peace Officer may give one warning. Subsequent complaints during the same time-frame will be issued a violation ticket or summons.
- h. No person shall make, cause, or permit to be made, any noise which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons at any time, while within the boundaries of hamlets, Chin, Ridge and Gold Springs Parks, group country residential areas as zoned within the County's Municipal Land Use Bylaw, between the hours of 11:00 p.m. and 7:00 a.m.
- i. No person or their motorized equipment, within any other public or private recreational areas and facilities, which includes but is not limited to motocross and race tracks, shall make, cause, or permit to be made, any noise which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons at any time during the following months, days and hours:
- i. April thru September
 - (1) Monday thru Saturday between the hours of 9:00 p.m. and 9:00 a.m. of the following day, except Sunday
 - (2) Sunday between the hours of 7:00 p.m. and 10:00 a.m. of the following day, except Monday.
 - ii. October thru March
 - (1) Monday thru Sunday between the hours of 5:00 p.m. and 10:00 a.m. of the following day.
 - iii. For special events, such as regional or national competitions or events, written permission shall be requested from the property owner, and written approval received from the Council, County Administrator or their designate,

prior to the event, to conduct activities in contravention to the above hours or any other provisions within this bylaw.

- j. Any person who owns, keeps, houses, or harbors on their premises a dog or dogs, which by reason of continuous barking or howling disturbs persons, is guilty of an offence under this bylaw. Continuous barking or howling means that the noise continues for a period of time as follows:
 - i. For a continuous duration of more than ten (10) minutes; or
 - ii. Sporadically for a total of more than ten (10) minutes, in any continuous fifteen (15) minute period.

4. **EXEMPTIONS**

- a. The general prohibition statement contained in 3 (a) does not apply to a bonafide farmer, rancher, livestock or other farm related animal operators, in the process of carrying out farming, ranching and other livestock operations, provided such activity is consistent with generally accepted farming, ranching and livestock practices and is not inconsistent with the level of noise typically generated by a similar agricultural, ranching and livestock activity.
- b. Except as otherwise provided in Section 3(d), no person shall operate or allow to be operated, equipment of any kind which creates a noise disturbance to another person, between the hours of 11:00 p.m and 7:00 a.m., except the following entities during emergency situations:
 - i. Local Authorities
 - ii. Utility Companies
 - iii. Emergency Service Providers
- c. No provision of this bylaw shall apply to or be interpreted to prevent:
 - i. The ringing of bells in churches, religious establishments and schools.
 - ii. The sounding of a general or particular alarm or warning to announce a fire or other emergency or disaster.
 - iii. Sounding of sirens on emergency response units.
 - iv. 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.
- d. Notwithstanding any other provisions of this bylaw, nothing in this bylaw shall prevent or prohibit the operation or carrying on of an industrial or commercial activity or the performance of the activity during the day or night, or any part thereof, in any area classed or zoned as industrial or commercial lands, where the activity is one which is a permitted use as is defined in the Municipal Land Use Bylaw for the County in which;
 - i. 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 County in which the use is being carried on.
 - iii. In the operation or carrying on of an industrial activity cited in subsection 3 (d) above, 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 out that activity.

5. PROCEDURE & PROSECUTION

- a. When a Peace Officer has reasonable grounds to believe a violation of this bylaw exists, every Peace Officer is hereby authorized to enter any lands or buildings, other than a dwelling house, to inspect for conditions that may constitute a noise, or which contravenes or fails to comply with the provisions of this bylaw. The Peace Officer may order the owner or occupant to remedy any condition which is deemed to be in contravention of this bylaw.
- b. For the purposes of procedure and prosecution under this bylaw, the Council adopts the provisions of Part XXVII 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.
- c. The conviction of a person under the provisions of this bylaw does not operate as a bar to further prosecution for the continued neglect or failure on the part of the person to comply with the provisions of this bylaw, or conditions, order, or permits, issued in accordance with this bylaw.
- d. A certificate or document signed by the County Administrator stipulating any particular information 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.
- e. A person who contravenes any provisions of this bylaw by doing something which is prohibited or by not doing something which is required is guilty of an offence and liable.
 - i. For a first offence to a fine of Two Hundred Dollars (\$200.00).
 - ii. For a second offence within one (1) year of the date of conviction for the first offence to a fine of Four Hundred Dollars (\$400.00).
 - iii. For a third or subsequent offence within one (1) year of the date of conviction of the first offence, upon summary conviction to a fine of not less than Six Hundred Dollars (\$600.00) and not more than Ten Thousand Dollars (\$10,000.00) and in default of payment imprisonment for a term not exceeding six (6) months.

6. SEVERABILITY PROVISION

- a. Should any provision of this bylaw be invalid, then such invalid provision shall be severed and the remaining bylaw shall be maintained.

7. TRANSITION

- a. None

8. COMING INTO FORCE

- a. This Bylaw shall come into full force and effect on the date of the final passing thereof.
- b.

READ A SECOND TIME this _____ day of _____, 2009 AD

READ A THIRD TIME this _____ day of _____, 2009 AD

REEVE

ADMINISTRATOR

DRAFT