

## BY-LAW NO. 746

**A BY-LAW OF THE VILLAGE OF BIG VALLEY**, in the Province of Alberta, to prevent and compel the abatement of activities creating noise in the Village of Big Valley.

**WHEREAS**, the Municipal Government Act Statutes of Alberta, 1994, Chapter M-26.1 with amendments thereto, 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 Village of Big Valley enacts as follows:

### 1. THIS BYLAW MAY BE CITED AS "THE NOISE BYLAW".

### 2. DEFINITIONS

Words defined in the:

- (i) "Highway Traffic Act" being Chapter H-7 of the Revised Statutes of Alberta, 1980 and amendments thereto;
- (ii) "Interpretation Act" being Chapter I-7 of the Revised Statutes of Alberta, 1980 and amendments thereto;
- (iii) "Municipal Government Act" being Chapter M-26.1 of the Revised Statutes of Alberta, 1994 and amendments thereto

shall have the same meaning when used in this bylaw unless defined in this bylaw or unless the context otherwise requires.

**"Bicycle"** – means a cycle propelled by human power on which a person can ride, regardless of the number of wheels it has and includes a **vehicle** that

- (i) may be propelled by muscular or mechanical power,
- (ii) is fitted with pedals that are continually operable to propel it,
- (iii) weighs not more than 35 kilograms.
- (iv) Has a motor that produces not more than 750 watts and that is driven by electricity or has an engine displacement of not more than 50 cubic centimeters,
- (v) Has no hand-operated or foot-operated clutch or gearbox driven by the motor that transfers power to the driven wheel, and
- (vi) Does not have sufficient power to enable it to attain a speed greater than 35 kilometers per hour on level ground with a distance of two kilometers from a standing start.

**"Bylaw Enforcement Officer"** – means the person or persons appointed from time to time by the Village of Big Valley to enforce and administer the bylaws of the Village of Big Valley.

**"Calendar Day"** – means that period of time commencing at 0001 hours and ending at 2400 hours.

**"Council"** – means the Village of Big Valley Council.

**"Dwelling Unit"** – means a complete building or self-contained portion of a building for the use of one or more individuals living as a single housekeeping unit, containing sleeping, cooking and separate toilet facilities intended as a permanent residence not separated from direct access to the outside by another separate or self-contained set or suite of rooms.

**"Motorcycle"** – means a motor vehicle mounted on two or three wheels and includes those motor vehicles known to the trade as motorcycles and scooters

but do not include an off-highway vehicle as defined in the Off-Highway Vehicle Act.

**“Motor Vehicle”** – means

- (i) a vehicle propelled by any power other than muscular power, or
- (ii) a moped, but does not include a bicycle, an aircraft, a tractor, whether equipped with rubber tires or not, an implement of husbandry or a motor vehicle that runs only on rails.

**“Peace Officer”** – means

- (i) a member of the Royal Canadian Mounted Police.
- (ii) A member of a municipal police force.
- (iii) A special constable.
- (iv) A Bylaw Enforcement Officer.

**“Premises”** – means land or building or both or a part thereof occupied or used for any purpose.

**“Truck Tractor”** – means a truck that is designed primarily for drawing another vehicle and that is not designed to carry any load other than part of the weight of the vehicle drawn, and includes a vehicle that is designed to accommodate a fifth wheel coupling, but does not include a crane equipment breakdown vehicle.

**“Vehicle”** – means a device in, on or by which a person or thing may be transported or drawn on a highway.

**“Village”** – means the municipal corporation of the Village of Big Valley.

**“Village Manager”** – means the person appointed from time to time by bylaw as the Chief Administrative Officer of the Village of Big Valley.

3. **GENERAL PROHIBITION**

- (a) Except to the extent it is allowed by this bylaw, no person shall make, continue, cause or allow to be made or continued any loud, unnecessary or unusual noise or any noise whatsoever which either annoys, disturbs, injures, endangers, or detracts from the comfort, repose, health, peace or safety of other persons within the limits of the Village.
- (b) What is a loud noise, an unnecessary noise, an unusual noise or a noise which annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others is a question of fact for a court which hears a prosecution of an offense against this bylaw.

(c) Where an activity which is not specifically prohibited or restricted by 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:

- 1. Is or may become, or
- 2. 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 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.

4. **ABATEMENT OF NOISE**

- (a) No person shall within the corporate limits of the Village make, or cause to be made any unnecessary or unusual noise likely to disturb the peace and quiet of the community, unless permission to do so has first been obtained in writing from the Council.
- (b) No person shall make or cause to be made any unnecessary noise likely to disturb other persons in the neighborhood.
- (c) No person shall allow property under his control or owned by him to be used to that there originates from that property any noise which disturbs the peace, comfort or repose of other persons within the limits of Village.
- (d) Where a Peace Officer is of the opinion that a particular noise is such that it is prohibited by this bylaw, the Peace Officer is hereby authorized to enter any dwelling or premises and such Peace Officer may order the owner or occupant thereof to remedy any condition which is in the opinion of the Peace Officer a contravention of this bylaw.
- (e) The Peace Officer who has reasonable and probable grounds to believe an offense is being committed contrary to this bylaw may enter into or upon any dwelling or premises, as aforesaid, and may seize any noise making articles, items, equipment or any other things which, in his opinion, have or may have been used in the contravention of this bylaw.
- (f) Any noise making articles, items, equipment or any other things used in the contravention of this bylaw that have been seized in accordance with this bylaw:
  - 1. shall be held until the Court case is heard at which time the Court shall determine their disposition, or
  - 2. shall be held for a period of up of 14 days if the case does not proceed to Court.
- (g) The Court may, at their discretion, make an order to require items which were seized:
  - 1. to be returned to the owner, or be
  - 2. retained and disposed of by the Court.

5. **MOTOR VEHICLE NOISES**

- (a) The failure of a person to comply within the Village with the following provisions of Highway Traffic Act.
  - 1. the prohibition against the use of a horn, gong, bell or other signaling device on motor vehicles, motorcycles or bicycles so as to make more noise that is reasonably necessary for the purpose of giving notice or warning to other persons on the highway as set out in Section 45;
  - 2. the restrictions on the type or use of mufflers and similar equipment on motor vehicles and other internal combustion engines as set out in Section 46; and
  - 3. the prohibition against equipping a vehicle other than those specific with a siren as set out in Section 45 and Section 59;

shall constitute a violation of this bylaw in addition to and not in substitution of the offense created by the Highway Traffic Act.

- (b) If a person operated a vehicle of any type on a street in a residential district at any time of day or night in such a way as to unduly disturb the residents of the street in the residential district in which he is operating the vehicle he shall be guilty of an offense under this bylaw in addition to and not in substitution for any offense of which he may be guilty against the provisions of Section 135 of the Highway Traffic Act.
- (c) Where a vehicle is allowed by the provision of Section 59 of the Highway Traffic Act to be equipped with a siren the driver thereof shall only use the siren at such times as the vehicle is proceeding in response to an emergency call and at such other times as is allowed by the Highway Traffic Act and at such times shall only use the siren when it is necessary for the purpose for which the siren is allowed to be used.
- (d) Nothing in subsection © shall prohibit or restrict the use of a siren on a vehicle operated by a member of the Royal Canadian Mounted Police, an inspector of the Motor Transportation and Utilities Branch of the Department of the Attorney General or a Special Constable.
- (e) No person shall allow the motor (diesel or other type) on a truck or a truck tractor to remain running for longer than twenty minutes while the truck or truck tractor is not in motion in any residential district.

## 6. CONSTRUCTION HOURS

- a. No person in the Village shall on any calendar day except Sundays and statutory holidays before 7:00 hours or after 22:00 hours, construct, erect, reconstruct, alter, repair or demolish any building, structure or thing or excavate or fill in land in any manner which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of the neighborhood or of persons in the vicinity.
- b. No person in the Village shall on any Sunday or statutory holiday before 0900 hours or after 1900 hours construct, erect, reconstruct, alter, repair or demolish any building, structure or thing or excavate or fill in land in any manner which disturbs the quiet, peace rest, enjoyment, comfort or convenience of the neighborhood or of persons in the vicinity.
- c. Where it is impossible or impractical to comply with this section, the Village Manager may give written approval to carry on the work that is found to be necessary at designated hours.

Responsibility for obtaining written approval lies with the person carrying on the work.

## 7. VILLAGE AND PUBLIC UTILITY EXEMPTIONS

- a. In the event of an emergency the provisions of subsection 5(b) and Section 6 do not apply to work on a Village street or on a public utility carried on by
  - 1. a Village department,
  - 2. Alta Gas Utilities Inc, Telus or Atco Electric, or
  - 3. A contractor working for the Village; Alta Gas Utilities Inc.; Telus or Atco Electric.

## 8. RIGHT TO INSPECT

Any persons thereunto authorized by the Council may enter any land, buildings, or premises to inspect for conditions that may constitute a nuisance a contravene of fail or come within the terms of this bylaw.

## 9. PENALTIES

- a. Everyone who contravenes any provision of this bylaw either by doing something which he is prohibited from or failing to do something which he is required to do, is guilty of an offense punishable on summary conviction and is liable,
1. for a first offense, to a fine of not less than \$50.00 and not more than \$500.00 or in default of payment of the fine and costs, to imprisonment for six months;
  2. for a second or subsequent offense, to a fine of not less than \$300.00 and not more than \$1,000.00 or in default of payment of the fine and costs, to imprisonment for six months,
- b. The owner of the premises or dwelling unit that is involved in any contravention of this bylaw may also be guilty of an offense,
1. unless that person(s) proves to the satisfaction of the judge that the contravention of this bylaw was not with the person(s) consent, express or implied.
  - c. If the Courts find the owner of the premises or dwelling unit guilty of an offense a penalty in accordance with Section 9 (a) of this bylaw may be imposed.
  - d. The owner of a premises or dwelling unit found guilty of a contravention of this bylaw and in default of payment of the fine imposed by the Court may have the unpaid fine added to the tax roll of the Village.

## 10. GENERAL

- a. If any term, clause or condition of this bylaw or application thereof, to any thing or circumstance shall to any extent be invalid or unenforceable, the remainder of this bylaw or application of such terms, clause or condition to any thing or circumstance, other than those to which it is held as invalid or unenforceable, shall not be affected thereby and each other term, clause or condition of this bylaw shall be enforced to the fullest extent permitted.

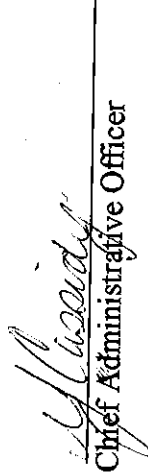
THIS BYLAW shall come into force and effect on final reading thereof.

READ A FIRST TIME THIS 27<sup>TH</sup>, day of May, 2002 A.D.

READ A SECOND TIME THIS 27<sup>TH</sup>, day of May, 2002 A.D.

READ A THIRD TIME AND FINALLY PASSED THIS 27<sup>TH</sup>, day of May, 2002 A.D.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Chief Administrative Officer