

BY-LAW No. 139/2010

BEING A BY-LAW OF THE TOWN OF BENTLEY, IN THE PROVINCE OF ALBERTA, TO PROHIBIT CERTAIN ACTIVITIES IN ORDER TO PREVENT AND COMPEL THE ABATEMENT OF NOISE.

WHEREAS, the Municipal Government Act, R.S.A. 2000, c M-26 and amendments thereto, authorizes a Municipal Council to pass by-laws respecting:

The safety, health and welfare of people and the protection of people and property,

AND WHEREAS, the Council of the Town of Bentley deems it expedient and in the public's safety, health and protection to pass a by-law to regulate and control noise occurring within the Town of Bentley, and

WHEREAS, the Council deems it necessary to repeal and replace By-law 409/80, the existing "Noise By-law",

NOW THEREFORE, the Council of the Town of Bentley duly assembled enacts as follows:

1. Title:

This By-law shall be cited as the "Noise By-law".

2. Definitions:

In this By-law unless the context otherwise requires;

"**Act**" means the *Municipal Government Act, R.S.A. 2000, c. M-25* as amended including any amendments substitutions thereof

"**Chief Administrative Officer**" means the Chief Administrative Officer of the Town of Bentley

"**Council**" means the Municipal Council of the Town of Bentley

"**Court**" means the Provincial Court of Alberta

"**Day-time**" means the period

- a. Beginning at 7:00 A.M. and ending at 11:00 P.M. of the same day on weekdays, which normally includes Monday through to Friday, with the exception of holidays
- b. Beginning at 8:00 A.M. and ending at 11:00 P.M. of the same day on weekends, which normally includes Saturday and Sunday
- c. Provincial or Municipal declared holidays will be the same hours as weekends



“Emergency Vehicle” has the same meaning as in the Traffic Safety Act

“Enforcement Officer” means;

- a. a member of the Royal Canadian Mounted Police
- b. a Community Peace Officer as appointed by the Solicitor General of Alberta
- c. a By-law Enforcement Officer as appointed by the Town to enforce by-laws of the Town

“Holiday” has the same meaning as in the *Interpretation Act, R.S.A., 2000, Chapter I-8*, as amended or replaced from time to time

“Including” when introducing a list of items, does not limit the meaning of the words to those items or to items of a similar kind,

“Motorized Power Tool” means any tool or implement that is powered by an electric or internal combustion motor, or compressed air, including snow-blowers, lawn mowers and motorized garden tools.

“Night-time” means the period beginning at 11:00 P.M. and ending the following day at;

- a. 7:00 A.M. if the following day is a weekday
- b. 8:00 A.M. if the following day is a weekend or holiday

“Noise” means any sound that aggravates, endangers or disturbs humans or animals or which detracts from the comfort, peace or repose of humans, including any loud music or outcry, clamor, shouting or any sound that is loud, harsh or otherwise undesirable.

“Person” means an individual or any business entity including a firm, partnership, association, corporation, company or society.

“Premises” means the external surfaces of all buildings and the whole or part of any parcel of real property, including the land immediately adjacent to any building or buildings.

“Provincial Ticket” means a ticket as defined in the *Provincial Offences Procedure Act, R.S.A., 2000, c P-34* and amendments thereto

“Provincial Offences Procedure Act” means the *Provincial Offences Procedure Act, R.S.A., 2000, Chapter P-34* and the regulations thereof, as amended or replaced from time to time.

“Public Place” means any place, including privately owned or leased property, to which the public reasonably has or is permitted to have access.

“Residential Building” means a structure used as a residence containing one or more dwelling units, including a house, multi-family dwelling, apartment building, lodging house, hotel, motel, mobile home or hospital

“Residential Development” means any land that is the site of one or more Residential Buildings

“Signaling Device” means any device that produces an audible sound used for the purpose of drawing a person’s attention, including a horn, gong, bell, klaxon or public address system

“Speaker System” means any sound amplification device that converts electrical impulses into sound, whether the device is independent or incorporated into a radio, stereo, television, computer or public address system, including any such device located in a building, vehicle or portable self-contained unit.

“Town” means the municipal corporation of the Town of Bentley in the Province of Alberta

“Traffic Safety Act” means the *Traffic Safety Act, R.S.A., 2000, Chapter T-6* and the regulations thereof, as amended or replaced from time to time.

“Tractor-Trailer” means the combination of a Truck-Tractor and a Trailer as those terms are defined in the *Traffic Safety Act*.

3. NOISE:

3.1 Except to the extent allowed by this By-law, no person shall

- a) make, 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, or
- b) allow or permit any real or personal property that is owned, occupied or controlled by that Person to be used in a way that allows excessive, unnecessary or unusual noise of any type to emanate from such property, or



c) operate, allow or permit the operation of a Speaker System of any type at an unnecessarily loud volume, thereby creating noise that disturbs or detracts from the comfort, repose, health, peace or safety of other persons

d) operate, allow or permit the operation of;

i) a motorized power tool outside of any building or structure

ii) a model aircraft powered by an internal combustion engine or any kind, or

iii) a signaling device of any kind, including a vehicle horn,

in a residential development in the night-time

e) permit any noise to emanate from the premises of such drinking establishment such that it annoys or disturbs any person outside the boundary of the drinking establishment. Section 3.1.c) of this By-law applies to this provision.

3.2

a) Whether or not a particular sound complained of constitutes a noise, or is an "excessive, unnecessary or unusual noise" are questions of fact to be determined by a Court hearing a prosecution pursuant to the provisions of this By-law

b) When making the determination as to whether a particular noise constitutes an "excessive, unnecessary or unusual noise" the Court shall consider any admissible evidence as to;

i) the time of the disturbance complained of and whether it was during the daytime or nighttime,

ii) the location of the disturbance and whether or not the disturbance occurred in a residential district,

iii) the duration and nature of the disturbance, and

iv) any other circumstances or factors relating to the disturbance which the Court deems are relevant to the said determination.

3.3

No person who owns, operates or controls a truck-tractor or tractor-trailer shall allow such vehicle to remain running for a period in excess of 20 minutes when it is stationary within a residential district or within 150 meters of a residential district.

3.5

No person who owns, operates or controls a vehicle equipped with an audible alarm system shall allow such system to be activated repeatedly or excessively, whether such activation is due to system malfunction, improper installation or setting, or any other reason, other than vandalism.



- 3.6 No person who owns, operates or controls a vehicle equipped with engine retarder brakes shall allow such brakes to be engaged in any area within the Town.

4. INDUSTRIAL/CONSTRUCTION NOISE

- 4.1 Nothing in this by-law shall prevent the continual operation or carrying on of an industrial activity where the activity is one which;

- a) is a permitted use, or
- b) is an approved discretionary use

- 4.2 Where a business, commercial, industrial or agricultural activity otherwise lawfully permitted at a location within the Town necessarily involves the creation of noise, as defined by this by-law;

- a) the person owning, operating or controlling the activity, or
- b) the person owning or controlling the property upon or within which the activity is allowed to take place

shall take all reasonable steps to ensure that the noise created by the said activity is minimized as much as practicable, in all circumstances.

5. EXEMPTIONS

- 5.1 The provisions of this By-law do not apply to;

- a) Emergency Vehicles
- b) Construction activities and related noise during the daytime
- c) Work performed in relation to a highway or public utility by the owner or operator of the public utility or its contractors
- d) Work carried on by the Town or by a contractor carrying out the instructions of the Town

- 5.2 The provisions of this By-law must not be interpreted to prevent;

- a) the ringing of bells in churches, religious establishments and schools
- b) The use of signaling devices on vehicles in their normal operation for the purpose of giving warnings to other drivers or pedestrians
- c) The sounding of any alarm or warning to announce a fire or other emergency
- d) The playing of a band or other activities relating to a lawful parade or public gathering

6. GENERAL PENALTY PROVISION

- 6.1 Any person that violates any provision of this By-law is guilty of an offence and is liable upon conviction to a maximum fine of \$10,000.00 or in default of payment of the fine to imprisonment for a period not exceeding one year, or to both fine and imprisonment in such amounts.

7. MINIMUM AND SPECIFIED PENALTIES

- 7.1 The minimum and specified penalty for a violation of this By-law is a fine in the amount of \$125.00.
- 7.2 Notwithstanding Section 7.1 of this By-law, if a person violates the same provision of the By-law twice within a one-year period, the minimum specified penalty for the second such violation shall be double the amount set out in Section 7.1.

8. ENFORCEMENT

- 8.1 Where an Enforcement Officer has reasonable grounds to believe that a person has contravened any provision of this By-law, the Enforcement Officer may commence proceedings against such person by;
- a) issuing the person a Violation Ticket pursuant to the provisions of Part 2 of the Provincial Offences Procedure Act or,
 - a) Swearing out an Information and Complaint against the person, or
 - b) In lieu of prosecution, issuing the person a By-law Violation Tag
- 8.2 Where a By-law Violation Tag issued to a person is not paid within 14 days of the date of issue, the Enforcement Officer may proceed by way of prosecution in accordance with Section 8.1 a) or b) of this by-law
- 8.3 No provision of this By-law nor any action taken pursuant to any provision of this By-law shall restrict, limit, prevent or preclude the Town from pursuing any other remedy in relation to a contravention of this By-law provided by the Municipal Government Act, or any other law of the Province of Alberta.



9. SEVERABILITY

9.1 Each provision of the By-law is independent of all other provisions. If any provision is declared invalid by a Court of competent jurisdiction, all other provisions of this By-law will remain valid and enforceable.

10. STRICT LIABILITY OFFENCE

10.1 It is the intention of Council that all offences created by this By-law be interpreted to be strict liability offences

11. REPEAL

11.1 By-law No. 409/80 is repealed on the date that this By-law comes into force and effect.

12. EFFECTIVE DATE

12.1 This By-law shall come into force and effect upon the final reading thereof.

Read a first time this 26th day of January, 2010.

Read a second time this 23rd day of February, 2010

Read a third and final time this 23rd day of February, 2010



Mayor



Chief Administrative Officer

