

BYLAW NO: 838-09

A BYLAW OF THE TOWN OF VAUXHALL TO PROVIDE FOR THE PROHIBITION, ELIMINATION AND ABATEMENT OF NOISE

NOW THEREFORE THE MUNICIPAL CORPORATION OF THE TOWN OF VAUXHALL IN COUNCIL ASSEMBLED ENACTS AS FOLLOWS:

SHORT TITLE

1. This Bylaw shall be known as the Noise Control Bylaw and shall be taken to apply within the municipal boundaries of the Town of Vauxhall.

DEFINITIONS

2. In this Bylaw, the following definitions shall apply:
 - a) **Corporation** means a body corporate or company wherever or however incorporated;
 - b) **Council** means the Municipal Council of the Town duly assembled and acting as such.
 - c) **Holiday** means and includes every Sunday and every other day defined as a holiday in the *Interpretation Act (Alberta)* and any day or portion of a day proclaimed by the Mayor or by the Council of the Town as a civic holiday.
 - d) **Manager** means a person appointed the position of Chief Administrative Officer for the Town of Vauxhall.
 - e) **Noise** means any sound which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of other persons.
 - f) **Peace Officer** means
 - i) A member of the Royal Canadian Mounted Police,
 - ii) A member of a municipal Police Service,
 - iii) A Special Constable,
 - iv) A Bylaw Enforcement Officer appointed pursuant to the *Municipal Government Act*, R.S.A. 1994, c. M-26.1
 - g) **Person** means any individual, trustee, legal representative, proprietorship, corporation, association, society, or partnership.
 - h) **Town** means the corporation of the Town of Vauxhall or the area contained within the boundaries of the said Town in the Province of Alberta as the context or circumstances require.
 - i) **Violation Ticket** means a summons/violation ticket issued in accordance with Part 2 of the *Provincial Offences Procedures Act*, R.S.A. 1988, c. P-21.5.

Offences and Penalties

3. No person shall cause or permit to be caused the emission of any noise within the Town.
 - 3.1 No person shall allow property under his control or ownership to be used so that there originates from that property any noise.
 - 3.2 A Peace Officer may request any person who has made or caused the emission of any noise or any person who controls or owns property from which the noise has originated, to abate or eliminate the noise. Such request may be either written or verbal.
 - 3.3 Every person who receives a request from a Peace Officer to abate or eliminate the noise shall comply with the request forthwith or so soon thereafter as reasonably practicable.
 - 3.4 Any person who contravenes the provisions of this Bylaw is guilty of an offence.
 - 3.5 A person, other than a corporation, who is guilty of an offence, is liable:
 - a) for a first offence, to a fine of not less than \$250.00 and not more than \$2,000.00 and in default of payment, to imprisonment for a term of not more than six (6) months.
 - b) for each subsequent offence committed within six (6) months after the commission of the first offence, to a fine of not less than \$500.00 and not more than \$3,000.00 and in default of payment, to imprisonment for a term of not more than six (6) months.
 - 3.6 A corporation that is guilty of an offence is liable:
 - a) for first offence, to pay a fine of not less than \$1,000.00 or not more than \$5,000.00 and in default of payment, distress.
 - b) for any subsequent offence, to a fine of not less than \$2,000.00 and not more than \$10,000.00 and in default of payment, distress.
 - 3.7 Where a Peace Officer believes on reasonable and probable grounds that an offence has taken place consisting of a breach or contravention of this Bylaw, he may commence proceedings by issuing a violation ticket.
 - 3.8 If a violation ticket is issued in respect to an alleged breach or contravention of this Bylaw, the violation ticket may provide for a specified penalty option in accordance with the *Provincial Offences Procedure Act*, R.S.A. 1988, c. P-21.5. The specified penalty shall be an amount equal to the minimum penalty prescribed by this Bylaw for the alleged breach or contravention.

- 3.9 Nothing in this Bylaw shall be read or construed as:
- a) preventing any person from exercising his right to defend an allegation that he has committed an offence under this Bylaw;
 - b) preventing a Peace Officer from issuing a violation ticket or otherwise initiating Court process in any manner permitted by law, in respect of an alleged offence, without first having issued a request to abate or eliminate the noise.
- 3.10 If, after the issuance of a violation ticket for an alleged offence, a person causes or allows or continues to cause or allow noise, in breach or contravention of this Bylaw, then a second or additional offences shall be deemed to have occurred.
- 3.11 A Peace Officer in lawful exercise of his duty may enter any land, buildings or premises other than a dwelling house to inspect for conditions that may constitute a breach or contravention of this Bylaw.

PERMITS AND EXEMPTIONS

4. The Manager may, upon written application, issue a special permit either with or without terms or conditions, to suspend the provisions of this Bylaw.
- 4.1 A person who has been issued a special permit shall be exempt from the Bylaw provided they comply with any conditions or terms relating thereto.
 - 4.2 Any person affected by the decision of the Manager to issue a special permit, either with or without terms or conditions, may appeal the decision to Council. The appeal must be in writing, dated and signed by the person affected by the decision and submitted to the Manager within fourteen (14) days of the Managers decision. No appeal shall lie from the decision of Council.
 - 4.3 All special permits shall be produced upon demand by a Peace Officer.
 - 4.4 This Bylaw does not apply to any of the agents, servants or employees of the Town when conducting work on behalf of the Town, or persons owning or controlling property upon which such work takes place.
 - 4.5 Persons engaged in construction activities, and persons owning or controlling property upon which construction activities takes place shall be exempt from this Bylaw, provided:
 - a) All necessary provincial, municipal and federal permits have been obtained;
 - b) The noise that is generated is pursuant to work done in the normal manner to that industry;
 - c) The noise is only generated between daytime hours of 7:00 a.m. and 9:00 p.m. on any day other than a holiday.

4.6 Persons using domestic equipment including lawn mowers, snow blowers, and garden tillers and persons owning or controlling property upon which such equipment is being used shall be exempt from this Bylaw, provided:

- a) the noise is of a temporary or intermittent nature;
- b) the equipment is properly maintained and operated in a normal manner;
- c) the equipment is used only between the hours of 7:00 a.m. and 9:00 p.m. each day of the week including holidays.

READ A FIRST TIME in Open Council this 1st day of June, 2009.

READ A SECOND TIME in Open Council this 1st day of June, 2009.

READ A THIRD AND FINAL TIME in Open Council this 1st day of June, 2009.



Mayor



Chief Administrative Officer