

**MUNICIPAL DISTRICT OF PINCHER CREEK
PROVINCE OF ALBERTA**

**BYLAW NO. 1256-14
THE NOISE BYLAW**

**A BYLAW OF THE MUNICIPAL DISTRICT OF PINCHER CREEK NO. 9, IN THE
PROVINCE OF ALBERTA, TO REGULATE UNNECESSARY AND HARMFUL NOISE**

WHEREAS, pursuant to section 3 of the *Municipal Government Act*, R.S.A. 2000, c. M-26 and amendments thereto, the purposes of a municipality are to develop and maintain safe and viable communities;

AND WHEREAS, pursuant to section 7 of the *Municipal Government Act*, R.S.A. 2000, c. M-26 and amendments thereto, a council of a municipality may pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property; activities and things in, on or near a public place that is open to the public; nuisances; and the enforcement of bylaws;

AND WHEREAS, it is desirable to regulate the volume, instances and type of noise that may be caused in the Municipal District of Pincher Creek No. 9, as unnecessary and harmful noise is a hazard to public health and welfare, safety and the quality of life of persons;

NOW THEREFORE the Municipal Council of the Municipal District of Pincher Creek, Alberta, duly assembled, hereby enacts as follows:

PART I - INTERPRETATION AND DEFINITIONS

Bylaw Title

1. This Bylaw may be cited as the "Noise Bylaw".

Definitions

2. In this Bylaw:

- (a) **"Bylaw Enforcement Officer"** means a bylaw enforcement officer appointed pursuant to section 555 of the *Municipal Government Act* or a police officer appointed pursuant to the *Police Act*, R.S.A. 2000, c. P-17 or a peace officer appointed pursuant to the *Peace Officer Act*, S.A. 2006, c. P-3.5, and the respective regulations thereof, as amended or replaced from time to time;
- (b) **"Chief Administrative Officer"** means the Chief Administrative Officer of the Municipal District or his delegate;
- (c) **"Council"** means the municipal council of the Municipal District;
- (d) **"Municipal Government Act"** means the *Municipal Government Act*, R.S.A. 2000, c. M-26, and the regulations thereunder, as amended or replaced from time to time;
- (e) **"Municipal Tag"** means a tag or similar document issued by the Municipal District pursuant to the *Municipal Government Act* for the purpose of notifying a Person that an offence has been committed for which a prosecution may follow;
- (f) **"Municipal District"** means the municipal corporation of the Municipal District of Pincher Creek No. 9 and its duly authorized employees, agents, contractors and other representatives or the geographic area contained within the boundaries thereof, as the context requires;
- (g) **"Noise"** means sound or vibrations which can easily be heard by a person who is not at the same location as the Property from which the sound emanates, including any loud music, tools, equipment, vehicles, animals, clamour, shouting or any other sound that is loud, harsh or otherwise undesirable;

**Bylaw No. 1256-14
Noise Bylaw**

- (h) **"Normal Farm Practise"** means a practice that is conducted by a farm business in a manner consistent with accepted customs and standards as established and followed by similar farm business under similar circumstances and includes agricultural activities that makes use of technology in a manner consistent with proper advanced farm management practises;
- (i) **"Owner"** means
- (i) any Person registered as the owner of land under the *Land Titles Act*;
 - (ii) the person who is recorded as the owner of the property on the assessment roll of the Municipal District;
 - (iii) a Person who has become the beneficial owner of a property, including by entering into a Purchase and Sale Agreement, and who has not yet become the registered owner thereof;
 - (iv) a Person holding himself out as the Person exercising the power or authority of ownership or, who for the time being exercises the powers and authority of ownership over the Property;
 - (v) a Person in control of Property; or
 - (vi) a Person who is the occupant of the Property under a lease, license or Permit;
- (j) **"Person"** means any individual, firm, partnership, association, corporation, trustee, executor, administrator or other legal representative to whom the context applies according to law;
- (k) **"Property"** includes land or buildings or both, or personal property that may make noise, including but not limited to vehicles, equipment, tools, electronic devices; and
- (l) **"Violation Ticket"** has the same meaning as in the *Provincial Offences Procedure Act*.

Interpretation

3. Nothing in this Bylaw relieves a person from complying with any provision of any federal or provincial law or regulation, other bylaw or any requirement of any lawful permit, order or license.
4. Any heading, sub-headings, or tables of contents in this Bylaw are included for guidance purposes and convenience only, and shall not form part of this Bylaw.
5. Where this Bylaw refers to another Act, bylaw, regulation or agency, it includes reference to any Act, bylaw, regulation or agency that may be substituted therefore.
6. This Bylaw is gender-neutral and, accordingly, any reference to one gender includes another.

PART 2 - PROHIBITIONS

General Provisions

7. No Person shall make, cause, or allow to be made or caused any Noise that disturbs, or tends to disturb, the quiet, peace, rest, enjoyment, comfort of convenience of any other Person.
8. No Owner shall allow Property to be used in such a way that Noise emanates from the Property which disturbs, or tends to disturb, the quiet, peace, rest, enjoyment, comfort of convenience of any other Person.
9. No Person shall play or operate any radio, stereophonic equipment or other instrument or any apparatus for the production or amplification of sound, either in or on private Property or in any public place, in such a manner as to disturb the quiet, peace, rest, enjoyment, comfort of convenience of any other Person.

**Bylaw No. 1256-14
Noise Bylaw**

10. Without limiting application of Sections 7 through 9, between the hours of 11:00pm and 7:00am no person shall make, cause, or allow to be made or caused a Noise resulting from :
- (a) the operation of residential maintenance equipment, including but not limited to:
 - i. mowing and trimming equipment;
 - ii. compressors;
 - iii. pressurized washers;
 - iv. leaf blowers;
 - v. saws; or
 - vi. vacuum equipment
 - (b) construction, excavation, grading or maintenance activities, whether using motorized or non-motorized equipment; or
 - (c) the operation of electronic devices used for the production, reproduction or amplification of sound, whether from a mobile or stationary source.
11. Sections 7 through 10 do not apply to any noise caused by the Municipal District, it's agents, or employees while carrying out the instructions of the Municipal District.

PART 3 - APPLICABILITY

Non-Application

12. This Bylaw does not apply to Noise resulting from Normal Farm Practices on land in a land use district in which agriculture is a permitted or discretionary use, or for which a development permit has been issued for agriculture, or for which agriculture is a legal non-conforming use within the meaning of Section 643 of the *Municipal Government Act*.
13. This Bylaw does not apply to Noise resulting from an industrial activity by any Person on land in a land use district where the industrial activity is a permitted use, or for which a development permit has been issued for the industrial activity, or for which the industrial use is a legal non-conforming use within the meaning of Section 643 of the *Municipal Government Act*.

PART 4 – ENFORCEMENT

Offence

14. A Person who contravenes any provision of this Bylaw is guilty of an offence.

Fines and Penalties

15. A Person who is guilty of an offence is liable to a fine in an amount not less than \$500.00 and not exceeding \$10,000.00.
16. Without restricting the generality of subsection (1), the following fine amounts are established for use on Municipal Tags and Violation Tickets if a voluntary payment option is offered:
- (a) \$500.00 for a first offence; and
 - (b) \$1,000.00 for any subsequent offence.

Directions

17. A Bylaw Enforcement Officer may direct any Person who has caused or made a Noise, or any Owner of Property from which a Noise originates to abate or eliminate the Noise.

**Bylaw No. 1256-14
Noise Bylaw**

Municipal Tags

18. A Bylaw Enforcement Officer is hereby authorized and empowered to issue a Municipal Tag to any Person whom the Bylaw Enforcement Officer has reasonable grounds to believe has contravened any provision of this Bylaw.
19. A Municipal Tag shall be served:
- (a) upon the Person personally, or by leaving it with a Person on the premises who has the appearance of being at least eighteen (18) years of age; or
 - (b) in the case of a corporation or partnership, by serving the Violation Tag personally upon the Manager, Corporate Secretary or other Officer, or Person apparently in charge of a branch office, by mailing a copy to such Person by registered mail.
20. A Municipal Tag shall be in a form approved by the Chief Administrative Office, and shall state:
- (a) the name of the Person to whom the Municipal Tag is issued;
 - (b) a description of the Property upon which the offence has been committed, if applicable;
 - (c) a description of the offence and the applicable Bylaw Section;
 - (d) the appropriate penalty for the offence as specified in this Bylaw;
 - (e) that the penalty shall be paid within thirty (30) days of the issuance of the Municipal Tag in order to avoid prosecution; and
 - (f) any other information as may be required by the Chief Administrative Officer.
21. A Person to whom a Municipal Tag has been issued may pay the penalty specified on the Municipal Tag and if the amount is paid on or before the required date, the Person will not be prosecuted for the offence.
22. If a Municipal Tag has been issued and the penalty specified on the Municipal Tag has not been paid within the prescribed time, a Bylaw Enforcement Officer may issue a Violation Ticket to the Person to whom the Municipal Tag was issued.
23. Notwithstanding the above, a Bylaw Enforcement Officer may immediately issue a Violation Ticket to any Person whom the Bylaw Enforcement Officer has reasonable grounds to believe has contravened any provision of this Bylaw.

Violation Ticket

24. A Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to Part 2 of the *Provincial Offences Procedure Act* to any Person whom the Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
25. If a Violation Ticket is issued in respect of an offence, the Violation Ticket may:
- (a) specify the fine amount established by this Bylaw for the offence; or
 - (b) require a Person to appear in court without the alternative of making a voluntary payment.

Voluntary Payment

26. A Person who commits an offence may:
- (a) if a Violation Ticket is issued in respect of the offence; and

Bylaw No. 1256-14
Noise Bylaw

- (b) if the Violation Ticket specifies the fine amount established by this Bylaw for the offence;

make a voluntary payment by submitting to a Clerk of the Provincial Court, on or before the initial appearance date indicated on the Violation Ticket, the specified penalty set out on the Violation Ticket.

Obstruction

27. No Person shall obstruct, hinder or impede any Bylaw Enforcement Officer in the exercise of any of his powers or duties pursuant to this Bylaw.

PART 5 – GENERAL

Severability

28. If any Section or parts of this Bylaw are found in any court of law to be illegal or beyond the power of Council to enact, such Section or parts shall be deemed to be severable and all other Sections or parts of this Bylaw shall be deemed to be separate and independent there from and to be enacted as such.

Repeal and Effective Date

29. Bylaw No. 1172-09 is hereby repealed in its entirety.
30. This Bylaw shall come into force and effect when it has received third reading and has been duly signed.

READ A FIRST TIME IN COUNCIL THIS 28th day of OCTOBER, 2014.

READ A SECOND TIME IN COUNCIL THIS 28th day of OCTOBER, 2014.

READ A THIRD TIME IN COUNCIL AND FINALLY PASSED THIS 16th DAY OF DECEMBER 2014.


Brian Hammond
REEVE


Wendy Kay
CHIEF ADMINISTRATIVE OFFICER