

## DISTRICT OF CHETWYND

### BYLAW NO. 874, 2008

#### **A bylaw to regulate or prohibit the making or causing of noises or sound in the municipality**

**WHEREAS** pursuant to the *Community Charter*, Council may, by bylaw, regulate, prohibit, and impose requirements in relation to the protection and enhancement of the well-being of the municipality, including without limitation, in relation to noise, vibrations, odour, dust, illumination or any other matter that is liable to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public;

**AND WHEREAS** Council considers it to be in the public interest to regulate or prohibit noise in the municipality;

**AND WHEREAS** Council may make different regulations and prohibitions for different areas of the municipality;

**NOW THEREFORE** the Council of the District of Chetwynd in open meeting assembled enacts as follows:

#### **1. CITATION**

This bylaw may be cited for all purposes as “District of Chetwynd Noise Control Bylaw No. 874, 2008.

#### **2. JURISDICTION**

This bylaw is applicable to and enforceable in the District of Chetwynd.

#### **3. DEFINITIONS AND INTERPRETATION**

“**All terrain vehicle**” means a vehicle having two or more wheels that is propelled by motorized power and capable of travel on or off a highway, and includes snowmobiles, dirt bikes, mini bikes and track vehicles.

“**Authorized person**” means a person appointed by the Council as a Bylaw Enforcement Officer, a Member of the Royal Canadian Mounted Police, an Animal Control Officer or the Chief Administrative Officer or his/her designate.

“**Bylaw Enforcement Officer**” means the person appointed by the Council to enforce municipal bylaws.

“**Care Facility**” means a facility licensed under the *Community Care Facilities and Assisted Living Act* to provide care for an individual who is elderly, ill or incapacitated.

“**Chief Administrative Officer**” means the person appointed by Council as the Chief Administrative Officer for the District of Chetwynd, or his/her designate.

**“Commercial zone”** means the area so designated in the District of Chetwynd Zoning Bylaw.

**“Construction”** means erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, the laying of pipe and conduit whether above or below ground level, street and highway building, concreting, equipment installation and alteration, and the structural installation of construction components and materials in any form or for any purpose, and includes any work in connection therewith.

**“Construction equipment”** means any equipment or device designed and intended for use in construction or material handling, including, but not limited to, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment.

**“Construction noise”** means any noise or sounds made by the operation of any machinery or construction equipment or made in the construction, reconstruction, alteration, repair or demolition of any building, structure or thing, including the excavation or filling of land.

**“Council”** means the Council of the District of Chetwynd.

**“Director of Engineering and Public Works”** means the person appointed by Council from time to time, and includes any person appointed or designated by the Director of Engineering and Public Works to act on his/her behalf.

**“Highway”** means a street, road, lane, bridge, viaduct and any other way open to public use, other than a private right of way on private property.

**“Idle”** means the operation of the engine of a commercial motor vehicle while the commercial motor vehicle is not in motion, and “idling” shall have a corresponding meaning.

**“Industrial zone”** means the areas so designated in the District of Chetwynd Zoning Bylaw.

**“Mobile workshop”** means a motor vehicle containing equipment that must be operated inside or in association with a motor vehicle.

**“Municipality”** means the District of Chetwynd.

**“Noise”** includes sound.

**“Person”** shall include any corporation, partnership, owner, association, society or party.

**“Public place”** means a highway, (other than an arterial highway or school board property) municipal park or any other lands under the care, management and jurisdiction of the municipality.

**“Real property”** means land, with or without improvements so affixed to the land as to make them in fact and law a part of it.

**“Residential area”** means the areas so designated in the District of Chetwynd Zoning Bylaw.

**“Vehicle”** includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power, but does not include the cars of electric or steam railways, or other motor vehicles running only upon rails, or traction engine, farm tractor, self-propelled implement of husbandry or road building machine.

#### **4. GENERAL REGULATIONS**

- (a) No person shall make or cause, or permit to be made or caused, in or on a highway or elsewhere in the municipality any noise which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood or of persons in the vicinity between the hours of 10:00 p.m. and 7:00 a.m.
- (b) No person being the owner, tenant, or occupier of property shall allow or permit such property to be used so that noise which occurs thereon emanates therefrom for longer than 10 minutes in duration, which is liable to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of individuals or the public.
- (c) No person shall play or operate any radio, stereophonic or digital sound 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, or convenience of individuals or the public.
- (d) No person shall own, keep or harbour an animal or bird, which by its cries, disturbs or tends to disturb the peace, quiet, rest, or tranquility of the surrounding neighbourhood or the public.
- (e) No person shall create, in a public place, a noise other than ordinary noises from the operation of vehicles, clearly audible within any school, institution of learning, place of religious worship or Court while the school, institution of learning, place of religious worship or Court is in session, or, in the case of a place of worship, being used for a religious service of any kind.
- (f) No person shall create a noise in a public place adjacent to a hospital or care facility that disturbs or tends to disturb the peace, quite, rest or tranquility of the patients or residents within the hospital or facility.

- (g) Without limiting the generality of the prohibitions in this bylaw, no person shall make the following noises that Council considers to be objectionable:
  - (i) Any amplified music or speech which is audible between the hours of 10:00 p.m. and 7:00 a.m. outside the premises on the real property from which it emanates or is reproduced, or at any boundary of the real property from which it emanates or is reproduced;
  - (ii) Any amplified music or speech that is projected into any highway or public place;
  - (iii) Any calls, cries, barks, or other noises or sounds made by an animal which are audible between the hours of 8:00 p.m. and 7:00 a.m. outside the premises where the animal is kept or at any boundary of the real property where the animal is kept;
  - (iv) Any construction noise between the hours of 10:00 p.m. and 7:00 a.m. in an area zoned to permit residential uses under the municipal zoning bylaw and between the hours of 10:00 p.m. and 5:00 a.m. in an area zoned to permit industrial uses under the municipal zoning bylaw;
  - (v) Any continuous noise or sound for more than ten (10) minutes with the exceptions otherwise specifically identified in this bylaw.

## **5. IDLING RESTRICTIONS**

- (a) No person shall cause or permit a commercial motor vehicle to idle in a residential area for more than twenty (20) consecutive minutes every eight (8) hours.

## **6. CONSTRUCTION HOURS**

- (a) Notwithstanding section 4 (g) (iv), no person in the municipality shall on any day before 7:00 a.m. or after 10:00 p.m., 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 individuals or the public.

## **7. EXEMPTIONS**

- (a) Sections 4 and 5 of this bylaw do not apply to:
  - (i) Buses, fire apparatus, police, or emergency medical service vehicles while engaged in operational activities, including training and patient transfer activities;
  - (ii) Commercial motor vehicles participating in an emergency activity;

- (iii) Commercial motor vehicles where idling is required as part of the repair process or to prepare the vehicle for service. In areas zoned for residential use, Section 5 (a) shall apply.
  - (iv) Armoured vehicles where a person remains inside the vehicle while guarding the contents of the vehicle or while the vehicle is being loaded or unloaded;
  - (v) Commercial motor vehicles engaged in a parade or race or any other such event authorized by Council;
  - (vi) Mobile workshops;
  - (vii) The operation of municipal or Ministry of Transportation maintenance, construction or repair equipment for the excavation, filling, construction, reconstruction, alteration, or repair of streets, highways, bridges, public works, infrastructure, or lands by the municipality's employees or agents or Ministry of Transportation employees or agents;
  - (viii) The operation of a public address system, or alarm system, required under a building or fire code;
  - (ix) Snow removal or highway cleaning operations;
  - (x) Horn or signalling device on a train or vehicle when used as a danger or warning signal;
  - (xi) Operation of a municipal dog pound facility;
  - (xii) Special events as authorized by Council;
  - (xiii) Operation of a public transportation system; or
  - (xiv) The use of bells or chimes for the announcing of religious services.
- (b) Despite section 6 (a), the Director of Engineering and Public Works may permit construction between the hours of 10:00 p.m. and 7:00 a.m. where he or she considers that it is impossible for a contractor to comply with section 6 (a) because of unusual circumstances related to construction timing or techniques.

## **8. OTHER**

Notwithstanding any provisions of this bylaw, a person may perform works of an emergency nature for the preservation or protection of life, health, or property, but the onus shall be on the person performing the work to show cause that the work was of an emergent nature.

## **9. INSPECTION**

A Bylaw Enforcement Officer may enter onto real property in accordance with section 16 of the *Community Charter* for the purposes of determining whether a breach of this bylaw is occurring or has occurred.

## **10. NO INTERFERENCE**

No person shall obstruct the entry of an authorized person from entering property under section 9.

## **11. NOTICE**

- (a) Where any notice is required to be given pursuant to this bylaw, such notice may be given:
  - (i) orally; or
  - (ii) in writing.
- (b) Such notice shall be sufficiently delivered if:
  - (i) personally served upon a person apparently aged 16 years or more and apparently occupying the property affected by such notice; or
  - (ii) sent to the owner of real property by double registered mail to his address appearing on the last revised assessment roll; or
  - (iii) deposited in a place normally used for the reception of mail; or
  - (iv) affixed to the property in a prominent place.

## **12. OFFENCES AND PENALTIES**

- (a) Any person who contravenes this bylaw is liable upon summary conviction to a fine not exceeding \$10,000 and the cost of prosecution.
- (b) Every day during which there is an infraction of this bylaw shall constitute a separate offence.
- (c) This bylaw is designated pursuant to section 264 (1) (a) of the *Community Charter*, S.B.C. 2003, c. 26 as a bylaw enforceable by means of a ticket in the form prescribed in the *Community Charter Bylaw Enforcement Ticket Regulation*, B.C. Reg. 425/200 or by laying an information.
- (d) The words or expressions set forth in Column 1 of Schedule “A” of this bylaw are authorized pursuant to section 264 (1) (c) of the *Community Charter* to designate the offence committed under the bylaw section number appearing in Column 2 opposite the respective words or expressions.

- (e) The amounts appearing in Column 3 of Schedule “A” of this bylaw are the fines established by Council pursuant to section 265 (1) (a) of the *Community Charter* for the corresponding offence designated in Column 1.

**13. SEVERABILITY**

If any section or lesser portion of this bylaw is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining portions of the bylaw.

**14. REPEAL**

“Abatement and Control of Noise Bylaw No. 210, 1978” is hereby repealed.

Read a first time this 19<sup>th</sup> day of February, 2008.

Read a second time this 19<sup>th</sup> day of February, 2008.

Read a third time this 4<sup>th</sup> day of March, 2008.

Adopted by Council this 18<sup>th</sup> day of March, 2008.

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Mayor

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Director of Corporate Administration

**DISTRICT OF CHETWYND**

**DISTRICT OF CHETWYND NOISE CONTROL BYLAW NO. 874, 2008**

**Schedule "A"**

<b>Offence:</b>	<b>Section:</b>	<b>Fine Amount:</b>
Against general regulations	4	\$100.00
Construction Hours	6	\$100.00