

WHEATLAND COUNTY

Noise Bylaw 2024-12

**Being a bylaw of Wheatland County, in the province of Alberta, for the purpose of regulating noise.**

**WHEREAS** the *Municipal Government Act*, R.S.A. 2000, c. M-26 Provides that a council may pass bylaws for municipal purposes respecting the following matters:

- a) The safety, health and welfare of people and the protection of people and property;
- b) People, activities and things in, on or near a public place or a place that is open to the public;
- c) Nuisances; and
- d) The enforcement of bylaws.

**AND WHEREAS** Council deems it advisable to pass a Bylaw to regulate noise which may disturb the peace;

**NOW THEREFORE** the Council of Wheatland County, duly assembled, enacts as follows:

**1.0 Title**

- 1.1 This Bylaw may be cited as the Noise Bylaw.

**2.0 Purpose**

- 2.1 This Bylaw is enacted to protect, preserve, and promote the safety, health and welfare, peace and quiet of residents of the County through the reduction, control and prevention of any noise that annoys or disturbs the peace of reasonable persons of ordinary sensitivity.

**3.0 Definitions**

Unless otherwise specified, the words used in this Bylaw have the same meaning as defined in the *Municipal Government Act* and its Regulations.

- 3.1 **“Agricultural Operation”** means an agricultural activity conducted on agricultural land for gain or reward or in the hope or expectation of gain or reward, and includes:

- a) the cultivation of land;
- b) the raising of poultry, fur-bearing animals, pheasants, fish, or livestock, including domestic cervids, within but not limited to the meaning of livestock in the Livestock Industry Diversification Act;
- c) the production of agricultural field crops, fruit, vegetables, sod, trees, shrubs, other specialty horticultural crops, eggs, milk, and honey;
- d) the operation of agricultural machinery and equipment, including irrigation pumps;
- e) the application of fertilizers, insecticides, pesticides, fungicides and herbicides, including application by ground and aerial spraying, for agricultural purposes;
- f) the collection, transportation, storage, application, use, transfer and disposal of manure, composting materials, and compost; and
- g) the abandonment and reclamation of confined feeding operations and manure storage facilities.

- 3.2 **“Agricultural Producer”** means any person conducting an agricultural activity on agricultural land for gain or reward or in the hope or expectation of gain or reward.

- 3.3 **"Ambient Sound"** means the sound level that is present in the environment produced by sound sources other than the source under assessment.
- 3.4 **"Amplified Sound"** means any sound that is made louder through a human made device.
- 3.5 **"Chief Administrative Officer"** means the person appointed as Chief Administrative Officer of Wheatland County or their authorized delegate.
- 3.6 **"Construction"** means the temporary process of demolishing, building, repairing, or improving any existing lawful structure, including landscaping, repair, property improvement, or any work connected with that process.
- 3.7 **"Continuous Sound"** means any sound level that occurs:
- a) for a continuous duration of more than 3 minutes; or
  - b) sporadically for a total of more than 3 minutes, in any continuous 15-minute time period.
- 3.8 **"Council"** means the duly elected Council of Wheatland County.
- 3.9 **"County"** means Wheatland County.
- 3.10 **"Court"** means a court of competent jurisdiction in the Province of Alberta.
- 3.11 **"Daytime"** means the period:
- a) beginning at 7:00 am and ending at 9:00 pm of the same day on weekdays; and
  - b) beginning at 9:00 am and ending at 9:00 pm of the same day on a weekend.
- 3.12 **"Emergency Vehicle"** has the same meaning as in the *Traffic Safety Act*.
- 3.13 **"Enforcement Officer"** means a member of the Royal Canadian Mounted Police (RCMP), a Community Peace Officer appointed in accordance with the Peace Officer Act, or a Bylaw Enforcement Officer employed by Wheatland County in accordance with the Municipal Government Act.
- 3.14 **"Generally Accepted Agricultural Practices"** refers to a practice that is conducted in a manner consistent with appropriate and accepted customs and standards as established and followed by similar agricultural operations under similar circumstances, and without restricting the generality of the foregoing includes the use of innovative technology used with advanced management practices.
- 3.15 **"Holiday"** has the same meaning as in the *Interpretation Act*.
- 3.16 **"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.
- 3.17 **"Interpretation Act"** means the *Interpretation Act*, RSA 2000, c I-8, as amended from time to time.
- 3.18 **"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.
- 3.19 **"Municipal Government Act"** means the *Municipal Government Act*, RSA 2000, c M-26, as amended or replaced from time to time.
- 3.20 **"Nighttime"** means the period beginning at 9:01 pm and ending the following day at:
- a) 6:59 am if the following day is a weekday; or
  - b) 8:59 am if the following day is a weekend.
- 3.21 **"Noise"** means any sound that:
- a) annoys, aggravates, endangers, or disturbs humans or animals;

- b) interferes with a person's peaceful enjoyment of their property;
- c) detracts from the comfort, peace, or repose of humans; and
- d) includes any loud music (low frequency or bass sound), shouting, banging, exhaust or engine sounds, or any other sound that is loud, harsh, or otherwise undesirable.

3.22 **"Owner"** means:

- a) in the case of land, the Person who is registered under *the Land Titles Act* as the owner of the fee simple estate in the parcel of land; or
- b) in the case of any property other than land, the Person in lawful possession of it.

3.23 **"Peace Officer Act"** means the *Peace Officer Act*, RSA 2000, c P-3.5, as amended or replaced from time to time.

3.24 **"Person"** means any individual or business, including a firm, joint venture, proprietorship, association, corporation, organization, partnership, company, society, or any other legal entity.

3.25 **"Property"** means:

- a) in the case of land, a parcel of land including any buildings or structures thereon; or
- b) in other cases, personal property.

3.26 **"Provincial Offences Procedure Act"** means the *Provincial Offences Procedure Act*, RSA 2000, c P-34, as amended or replaced from time to time.

3.27 **"Residential Development"** means any land that is the permitted and lawful site of one or more residential buildings, excepting farms, ranches, and other land used for purely agricultural purposes.

3.28 **"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.

3.29 **"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.

3.30 **"Traffic Safety Act"** means the *Traffic Safety Act*, RSA 2000, c T-6, as amended from time to time.

3.31 **"Vehicle"** has the same meaning as in the *Traffic Safety Act*.

3.32 **"Violation Ticket"** means a ticket issued pursuant to the provisions of the *Provincial Offences Procedure Act*.

3.33 **"Weekday"** means Monday through Saturday, inclusive, except for any holidays.

3.34 **"Weekend"** means Sunday, and any other holiday.

#### 4.0 Noise Control

4.1 No person shall in either the daytime or the nighttime:

- a) make, continue, cause, or allow to be made or continued any excessive, unnecessary, or unusual noise of any type;
- 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) create excessive noise through amplified sound including the operation, allowance, or permit the operation of a speaker system.

- 4.2 Whether a particular sound complained of constitutes a noise, or constitutes an excessive, unnecessary, or unusual noise are questions of fact to be determined by a court hearing a prosecution pursuant to this bylaw. When deciding as to whether a particular sound constitutes an excessive, unnecessary, or unusual noise the court shall consider any admissible evidence as to:
- a) the time of the noise complained of and whether it was during the daytime or the nighttime;
  - b) the location of the noise and whether or not the noise occurred in a residential development or residential building;
  - c) the duration and nature of the noise;
  - d) approved land uses, and the nature and zoning of the Property from which the noise emanates and the area where the noise is received or perceived;
  - e) the nature of the event or activity from which the noise emanates; and
  - f) any other circumstances or factors relating to the noise which the court deems are relevant to the said determination.

- 4.3 When a business, commercial or agricultural activity otherwise lawfully permitted at a location within Wheatland County necessarily involves the creation of noise as defined in this bylaw:

- 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 such activity is minimized as much as practicable in all the circumstances.

- 4.4 Whether or not an activity referred to in Section 4.3 of this bylaw "necessarily" involves the creation of noise and whether the person controlling the said activity has taken "all of the reasonable steps" to minimize such noise are questions of fact to be determined by a court hearing a prosecution pursuant to this Bylaw.

- 4.5 No Owner or Occupant of a Property shall cause or permit any construction activity on a Property which creates a noise that may annoy or disturb the peace of any other person:

- a) before 7:00 am or after 9:00 pm Monday through Saturday; or
- b) before 9:00 am or after 9:00 pm on a Sunday or holidays.

- 4.6 No Person shall advertise events, merchandise, or foodstuffs, by using bells, gongs, horns, megaphones, or any other noise-making or sound amplification devices between the hours of 9:00 pm and 7:00 am.

- 4.7 An Enforcement Officer may direct any person who has caused or made a Noise, or any Person who owns property from which Noise has originated to abate or eliminate the Noise. Such direction may be either verbal or written.

- 4.8 An Enforcement Officer shall only corroborate the evidence provided by an affected person as to the level of the noise if they are able to personally observe the noise. Prosecution shall come from a written statement from an affected person.

## **5.0 Exemption and Exceptions**

- 5.1 The provisions of this bylaw do not apply to:

- a) emergency vehicles;
- b) the aeronautical related operations of a federally regulated airport;
- c) Agricultural Operations;
- d) construction during the daytime, whether or not such construction requires a permit;
- e) any activity identified and approved by way of a development permit;

- f) any activity that violates any provision of the Land Use Bylaw in which case, enforcement will occur through the development compliance process;
- g) work by the County, a public utility, or contractors on County infrastructure or public utilities; or
- h) any activity within the sole jurisdiction of the Government of Canada or the Province of Alberta.

5.2 The provisions of this bylaw must not be interpreted to prevent:

- a) the ringing of bells in places of worship, schools, and other institutional buildings;
- 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.

## **6.0 Permit**

6.1 The Chief Administrative Officer may issue a noise bylaw exemption permit, on placing whatever conditions the Chief Administrative Officer considers appropriate, authorizing the production of noise in a manner, or of a type, that would otherwise contravene this Part.

## **7.0 Offences and Penalties**

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

7.2 A Person who is guilty of an offence is liable to a fine in an amount not less than that established in Schedule "A" and not exceeding \$10,000.00.

7.3 In the case of an offence that is of a continuing nature, a contravention constitutes a separate offence in respect of each day, or part of a day, on which it continues.

7.4 Without restricting the generality of Sections 7.2 and 7.3, the fine amounts set out in Schedule "A" are established for use on Municipal Tags and Violation Tickets if a voluntary payment option is offered.

7.5 Where an Enforcement Officer determines that a violation against any provisions of this bylaw has been committed, may,

- a) request that the noise cease and desist;
- b) seize anything used to cause the noise.

7.6 Where anything is seized pursuant to Section 7.5, the seized thing shall be returned to the owner at the conclusion of any proceedings brought against the owner.

## **8.0 Municipal Tag**

8.1 An Enforcement Officer is hereby authorized and empowered to issue a Municipal Tag to any Person who the Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.

8.2 A Municipal Tag shall be served:

- a) either personally; or
- b) by mailing a copy, via registered mail, to such Person at their last known postal address.

8.3 A Municipal Tag shall be in a form approved by the Chief Administrative Officer and shall state:

- a) the name of the Person;
- b) a description of the Property upon which the offence has been committed, if applicable;
- c) the offence;

- d) the specified penalty established by this Bylaw for the offence;
  - e) that the penalty shall be paid within 30 days of the issuance of the Municipal Tag; and
  - f) any other information as may be required by the Chief Administrative Officer.
- 8.4 Where a Municipal Tag is issued pursuant to this Bylaw, the Person to whom the Municipal Tag is issued may, in lieu of being prosecuted for the offence, pay to the County the penalty specified prior to the date indicated on the Municipal Tag.

## **9.0 Violation Ticket**

- 9.1 If a Municipal Tag has been issued and if the specified penalty has not been paid within the prescribed time, then an Enforcement Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to the *Provincial Offences Procedure Act*.
- 9.2 Notwithstanding Section 9.1, an Enforcement Officer is hereby authorized and empowered to immediately issue a Violation Ticket pursuant to the *Provincial Offences Procedure Act* to any person who an Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 9.3 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 the Person to appear in court without the alternative of making a voluntary payment.
- 9.4 A Person who commits an offence may, if a Violation Ticket is issued in respect of the offence, and if the Violation Ticket specifies the fine amount established by this Bylaw for the offence, make a voluntary payment by submitting to the 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.
- 9.5 When a Clerk of the Provincial Court records the receipt of a voluntary payment pursuant to Section 61 and the *Provincial Offences Procedure Act*, the act of recording constitutes acceptance of the guilty plea and constitutes a conviction and the imposition of a fine in the amount of the specified penalty.
- 9.6 Nothing in this Bylaw shall be construed to limit or hinder the ability of the County to issue an order pursuant to Sections 545, 546, or 645 of the *Municipal Government Act*.

## **10.0 Vicarious Liability**

- 10.1 For the purposes of this Bylaw, an act or omission by an employee or agent of a Person is deemed also to be an act or omission of the Person if the act or omission occurred during the employee's employment with the Person, or during the agent exercising the powers or performing the duties on behalf of the Person under their agency relationship.

## **11.0 Corporations and Partnerships**

- 11.1 When a corporation commits an offence under this Bylaw, every principal, director, manager, employee, or agent of the corporation who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence whether the corporation has been prosecuted for the offence.
- 11.2 If a partner in a partnership is guilty of an offence under this Bylaw, each partner in that partnership who authorized the act or omission that constitutes the offence or assented to or acquiesced or participated in the act or omission that constitutes the offence is guilty of the offence.

## **12.0 Inspections**

- 12.1 A designated officer, for the purposes of ensuring that the provisions of this Bylaw are being complied with, may, upon reasonable notice, enter in or upon a

Property, in accordance with Section 542 of the *Municipal Government Act*, to carry out an inspection.

**13.0 Obstruction**

13.1 No Person shall obstruct, hinder, or impede any authorized representative of the County in the exercise of any of their powers or duties pursuant to this Bylaw.

**14.0 Severability**

14.1 Each provision of this Bylaw is independent of all other provisions. If a Court of competent jurisdiction declares any provision invalid for any reason, all other provisions of this Bylaw shall remain valid and enforceable, and the Bylaw shall be interpreted as such.

**15.0 Exercise of Discretion**

15.1 The County has the discretion to enforce this Bylaw and is not liable of any outcomes should the County or an Enforcement Officer not decide to enforce this Bylaw if acting in good faith.


**16.0 Repeal**

16.1 Bylaw 2022-13 is hereby repealed.

READ A FIRST TIME 21 day of may, 2024.

READ A SECOND TIME 21 day of may, 2024.

READ A THIRD TIME AND FINAL TIME 21 day of may, 2024.

  
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Amber Link, Reeve

  
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Brian Henderson, Chief Administrative Officer

**Schedule "A"**

Section	Description	Penalty			
		First Offence	Second Offense	Third Offence	Fourth or Subsequent Offence
4.1(a)	Cause Noise as to Disturb the Peace	\$250	\$500	\$1000	\$2000
4.1(b)	Allow Noise to Disturb the Peace	\$250	\$500	\$1000	\$2000
4.2(c)	Use Speaker or Amplifier to cause unnecessary noise	\$250	\$500	\$1000	\$2000
4.5	Prohibited Construction Activity	\$250	\$500	\$1000	\$2000
4.6	Prohibited Advertising Noise	\$250	\$500	\$1000	\$2000
4.7	Fail to Eliminate or Abate noise as ordered by a Peace Officer	\$500	\$750	\$1000	\$2000
6.1	Contravene Conditions of a Noise Exemption Permit	\$250	\$500	\$1000	\$2000
12.1	Fail to allow Inspection	\$500	\$750	\$1000	\$2000
13.1	Obstruct Peace Officer	\$500	\$750	\$1000	\$2000