

TOWN OF DAYSLAND

BY-LAW 2018-625

NOISE ABATEMENT BYLAW

BEING A BY-LAW OF THE TOWN OF DAYSLAND IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF PROHIBITING, ELIMINATING OR ABATING NOISE

WHEREAS, pursuant to the provisions of the Municipal Government Act, RSA 2000, C. M-26, as amended, repealed or replaced from time to time provides that a Council of a Municipality may pass a bylaw respecting the safety, health and welfare of people, activities and things in, or near a public place or place that is open to the public;

AND WHEREAS the Traffic Safety Act, RSA 2000, c. T-6, as amended, repealed or replaced from time to time provides that a Council of a Municipality may make bylaws defining what constitutes objectionable Noise, devising a system or method of determining or measuring that Noise, and prohibiting the operation of Motor Vehicles that in any manner make objectionable Noise;

NOW THEREFOR THE COUNCIL OF THE TOWN OF DAYSLAND, in the Province of Alberta, duly assembled, enacts as follows:

1. SECTION 1 – SHORT TITLE

This bylaw may be cited as the **“Noise Abatement Bylaw”**.

2. SECTION 2 - DEFINITIONS

In this Bylaw, unless the context otherwise requires:

- 2.1 “Chief Administrative Officer” means the Chief Administrative Officer of the Town and whatever substitute title may be conferred on that officer by counsel or statute.
- 2.2 “Construction Equipment” includes all equipment commonly used in construction, including but not limited to a riveting machine, concrete mixer, gravel crusher, steam shovel, trenching machine, dragline, backhoe, air or steam compressor, jack-hammer or pneumatic drill, bulldozer, front-end loader, motor scraper, motor grader, or any other tool, device or machinery of a noisy nature.
- 2.3 “Council” means the Council of the Town.
- 2.4 “Development Officer” means a Development Officer/ Engineering Technician, or designate, for the Town and whatever subsequent title may be conferred on that officer by Council or statute.
- 2.5 “Enforcement Officer” means a Bylaw Enforcement Officer appointed by the Town pursuant to the Municipal Government Act, as amended, repealed or replaced from

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time to time and includes a member of the Royal Canadian Mounted Police and, when authorized, a Special Constable.

2.6 "Holiday" means any day declared as such by Municipal, Provincial or Federal authority and includes Sundays.

2.7 "Land Use Bylaw" shall mean the Land Use Bylaw currently in force, as amended, repealed or replaced from time to time.

2.8 "Motor Vehicle" means Motor Vehicle as defined in the Highway Traffic Act, as amended, repealed or replaced from time to time.

2.9 "Objectionable Noise" means any *sound* that annoys, disturbs, injures or endangers persons or that detracts from the comfort, repose, health, peace or safety of a person within the boundary of the municipality noise such as:

- The sound from a motor vehicle that annoys or disturbs humans;
- The squeal of a tire from a vehicle accelerating or changing direction;
- A roaring or explosive sound;
- Sound from a radio, stereo, television or amplified equipment;
- sound of a motor vehicle security system which is made for a period exceeding one minute or made more than three times in one 24-hour period, except for the motor vehicle;

2.10 "Off-Highway Vehicle" means an Off-Highway Vehicle as defined in the Traffic Safety Act as amended, repealed or replaced from time to time.

2.11 "Person" includes an individual, partnership, corporation, trustee, executor or administrator.

2.12 "Town" means the Town of Daysland.

2.13 "Violation Tag" means a ticket or similar document issued by the Town pursuant to the Municipal Government Act R.S.A. 2000, c.M-26, as amended, repealed or replaced from time to time and as referred to in Section below.

2.14 "Violation Ticket" means a ticket issued pursuant to Part II of the Provincial Offences Procedures Act, R.S.A. 2000, c.P-34, as amended, repealed or replaced from time to time and regulations there under, and as referred to in this bylaw.

3. SECTION 3 – VIOLATIONS

3.1 Except to the extent permitted by this bylaw, no Person shall cause, or permit any other Person to:

3.1.1 cause an Objectionable Noise within the Town;

3.1.2 operate a Motor Vehicle that causes an Objectionable Noise within the Town;

- 3.1.3 operate or permit any other Person to operate within the Town an Off-Highway Vehicle that causes an Objectionable Noise;
- 3.1.4 cause any non-essential noise between 2300 hrs of one day (11:00 p.m.) and 0700 hrs of the next day (7:00 a.m.) or between 2300 hrs of one day (11:00 p.m.) and 1000 hrs (10:00 a.m.) if that next day is a Holiday.
- 3.2 The use of engine retarder brakes are prohibited within Town corporate limits.
- 3.3 No person shall allow property under his or her ownership or control to be used in such a way that there is an Objectionable Noise originating from the property.
- 3.4 The owner of any real property, as registered on title at the Land Titles Office is ultimately responsible for all activities on the property which may constitute prohibitions of this Bylaw.
- 3.5 Where an activity that is not specifically prohibited by Federal, Provincial or Municipal laws or regulations and that making a sound or reacting to a sound that
 - 3.5.1 is, or may become,
 - 3.5.2 creates or produces, or may create or produce
 an Objectionable Noise, a person engaging in such activity shall do so in such a manner as to create as little sound as is practicable under the circumstances.
- 3.6 A Town Bylaw Enforcement Officer may direct any Person who has caused or made an Objectionable Noise, or any Person who owns or controls property from which an Objectionable Noise has originated, to abate or eliminate the Noise. Such a direction may be either verbal or written.

4. SECTION 4 – PERMITS AND NON-APPLICATION OF BY-LAW

Residents of the municipality may apply for a permit suspending the provisions of this bylaw.

- 4.1 The Development Officer or Chief Administrative Officer may, upon written request, issue permission in writing to a Person for the purpose of suspending the provisions of this bylaw, and the written permission shall specify the dates and hours during which noise may occur (the "Permit").
- 4.2 The Chief Administrative Officer may refuse to issue a Permit, or impose any term or condition upon a Permit.
- 4.3 The applicants for a Permit may appeal either:
 - (a) The refusal of an issuance of a Permit; or

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(b) A condition(s) of the Permit

to council within thirty (30) days of the receipt of the refusal, or the receipt of the issuance of the Permit.

4.4 On appeal under either Clause 4.3(a) or 4.3(b), Council may refuse a Permit, confirm a Permit, issue a Permit upon any terms or conditions, or vary a term(s) or condition(s) of a Permit. The decision of Council is final.

4.5 Any such Permit issued shall be produced to a Town Bylaw Enforcement Officer upon demand.

4.6 Persons owning or controlling Construction Equipment, and persons owning or controlling land on which Construction Equipment is being operated shall be exempt from the provisions of this Bylaw if:

4.6.1 the Noise is generated pursuant to work done in the normal manner to that industry;

4.6.2 the Noise is generated between the hours of 7:00 a.m. and 10:00 p.m. of any day excluding Holidays, and between the hours of 10:00 a.m. and 10:00 p.m. on Holidays; and

4.6.3 all necessary Federal, Provincial and Municipal permits, licenses and approvals have been obtained and the work is not contrary to any federal, provincial or municipal laws or regulations.

4.7 This bylaw does not apply:

4.7.1 to work carried on by the Town or its agents, contractors, servants or employees, acting within the scope of their agency, contract, or employment, as the case may be; or

4.7.2 to the performance of any industrial activity by any Person on land where:

4.7.2.1 The industrial activity is:

(a) a permitted use within Districts under the Land Use Bylaw;

(b) an approved discretionary use within Districts under the Land Use Bylaw; or

(c) a non-conforming use as defined in the Municipal Government Act;

4.7.3 to Persons using domestic equipment including lawnmowers, snow blowers, garden tillers and built-in vacuum cleaners which are vented to the outside, and Person owning or controlling property upon which such equipment is used if:

- 4.7.3.1 The noise is of a temporary or imminent nature;
- 4.7.3.2 The equipment is properly maintained and operated in a normal manner for that type of equipment; and
- 4.7.3.3 The Noise occurs between the hours of 7:00 a.m. and 10:00 p.m. of any day and between the hours of 10:00 a.m. and 10:00 p.m. on Holidays;
- 4.7.4 to Persons using air conditioning and cooling units in either domestic or commercial use if the units are properly maintained and are operated in a normal manner.

5. SECTION 5 AUTHORIZATION TO INSPECT

- 5.1 An Enforcement Officer may, provided reasonable notice has been given the owner or occupier of the land, unless an emergency or extraordinary circumstance exists, enter any land, building or premises to inspect for conditions that may constitute a contravention of this bylaw.
- 5.2 If a Person refuses or interferes with the entry, inspection or enforcement of this bylaw, the Town may apply to the Court of Queen's Bench for an Order restraining that person from preventing or interfering with the entry, inspection or enforcement or any other action as the Court may order in accordance with Section 543 of the Municipal Government Act, as amended.

6. SECTION 6 – PENALTIES

- 6.1 Any person who violates or contravenes or allows, permits or causes a person to violate or contravene any provision of this bylaw, is guilty of an offense and shall be liable of summary conviction before a Provincial Court Judge to a penalty as specified in Schedule A of this bylaw.
- 6.2 In addition to the fines stipulated in section 6.1, a Provincial Court Judge may make any other order deemed appropriate concerning a breach of this bylaw.
- 6.3 An Enforcement Officer may direct any Person who has caused or made an Objectionable Noise, or any Person who owns or controls property from which the Objectionable Noise has originated, to abate or eliminate the Noise. Such a direction may be verbal or written.
- 6.4 Notwithstanding Sections 6.1 or 6.3 of this bylaw, an Enforcement Officer may issue a violation tag to a person who the Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this bylaw;
 - (a) Specifying a voluntary payment as described in Schedule A.2 of this bylaw; and

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(b) The person to whom the violation tag is issued may, in lieu of being prosecuted for the offence, pay to the Town of the Bylaw Enforcement Officer the penalty specified within the time period indicated on the violation tag.

6.5 A violation tag shall be deemed to be have been sufficiently served if:

- (a) Served to the accused directly, or
- (b) Mailed to the address of the registered owner of the vehicle or person occupying a property, or
- (c) Secured to the vehicle or property in respect of which the offense is alleged to have been committed.

6.6 In those cases where a violation tag has been issued and the penalty specified on the violation tag has not been paid within the prescribed time, then an Enforcement Officer may issue a violation ticket specifying that a voluntary payment be made as described in Schedule A.3 of this bylaw.

6.7 Notwithstanding Section A.4 of this bylaw, an Enforcement Officer may immediately issue a violation ticket to any person who the Enforcement Officer has reasonable grounds to believe has contravened any provisions of this bylaw, specifying that

- (a) A voluntary payment be made as described in Schedule A.3 of this bylaw; or
- (b) If it is in the public interest to compel the accused to appear before a Judge, issue a summons respecting any offense for which a voluntary payment may be made requiring the accused to appear before a Provincial Court Judge on the initial date without the alternative of making a voluntary payment.

6.8 The levying and payment of any fines shall not relieve a person from the necessity of remedying the situation that created the violation of any section of the Bylaw.

7. SECTION 7 – SEVERABILITY PROVISION

7.1 Should any provision of this bylaw be invalid, then such provision shall be severed and the remaining bylaw shall be maintained.

8. SECTION 8 – REPEAL

8.1 The Town of Daysland Bylaw 464 is hereby repealed.

9. SECTION 9 – EFFECTIVE DATE

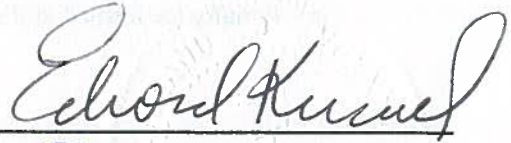
9.1 This bylaw shall take effect on the date of passing thereof.

READ A FIRST TIME THIS 17th DAY OF SEPTEMBER, 2018

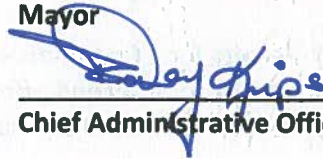
READ A SECOND TIME THIS 17TH DAY OF SEPTEMBER, 2018

UNANIMOUS CONSENT FOR THIRD AND FINAL READING GIVEN THIS 17TH DAY OF SEPTEMBER, 2018

READ A THIRD AND FINAL TIME THIS 17TH DAY OF SEPTEMBER, 2018



Mayor



Chief Administrative Officer

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SCHEDULE "A"

SCHEDULE A.1

- | | |
|--|-----------|
| (a) Penalty for a first offence, a fine of | \$300.00 |
| (b) Penalty for a second offence, a fine of | \$600.00 |
| (c) Penalty for a third and subsequent offence | \$1200.00 |

SCHEDULE A.2

- | | |
|--|----------|
| (a) Penalty for a first offence, a fine of | \$ 75.00 |
| (b) Penalty for a second offence, a fine of | \$150.00 |
| (c) Penalty for a third and subsequent offence | \$300.00 |

SCHEDULE A.3

- | | |
|--|----------|
| (a) Penalty for a first offence, a fine of | \$150.00 |
| (b) Penalty for a second offence, a fine of | \$300.00 |
| (d) Penalty for a third and subsequent offence | \$600.00 |