

TOWN OF PICTURE BUTTE
BYLAW NO. 866-18

Being a bylaw to prohibit certain activities creating noise and to abate the incidence of noise and restrict the hours when certain sounds may be made.

WHEREAS the Municipal Government Act, R.S.A. 2000, Chapter M-26, provides that a Council may pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property.

AND WHEREAS the incidence of noise in the Town of Picture Butte is such that the Council of the Town of Picture Butte deems it expedient that a bylaw be made restricting, mitigating and abating activities, which give, rise to unnecessary noise in the Town, especially during hours normally used for sleeping;

AND WHEREAS the intent of this bylaw is that all noise shall be reduced as far as possible compatible with the normal activities and that unnecessary noise be eliminated.

NOW THEREFORE THE COUNCIL OF PICTURE BUTTE, DULY ASSEMBLED, ENACTS AS FOLLOWS:

1. This bylaw may be cited as the "Noise Bylaw".
2. In this bylaw:
 1. "Chief Administrative Officer" shall mean the Town Chief Administrative Officer as appointed by Town Council and anyone acting or authorized to act on his/her behalf.
 2. "Holiday" means any statutory holiday as defined in the Interpretation Act of Alberta.
 3. "Industrial Zone" includes lands identified as Industrial – I in the Land Use Bylaw.
 4. "Land Use Bylaw" means Bylaw Number 841-15 as amended from time to time or any bylaw passed in substitution for or in addition to Bylaw Number 841-15.
 5. "Nighttime" means the period beginning at 10:00 p.m. and ending the following day at:
 - a) 7:00 a.m. if the following day is a weekday; or
 - b) 8:00 a.m. if the following day is a weekend.
 6. "Residential Building" includes buildings and lands in districts defined as Residential Districts in the Land Use Bylaw.
 7. "Residential District" means any area of Town that has been designated as a Residential District in the Town's Land Use Bylaw.
 8. "Signalling device" means a horn, gong, bell, klaxon or other device producing an audible sound for the purpose of drawing a person's attention to an approaching vehicle, including a bicycle.
 9. "Special Constables" means a person who is appointed as a special constable under Section 42 of the Police Act of Alberta as defined in the Peace Officer Act of Alberta.
 10. "Ticket" means any ticket which is authorized by the Municipal Government Act, R.S.A. (2000), Chapter M-26 or under the Provincial Offences Procedures Act, R.S.A. (2000), Chapter P-34, issued for any bylaw offence in which a penalty may be paid out of court in lieu of appearing to answer a summons.
 11. "Town" means the Corporation of the Town of Picture Butte or the area contained within the boundaries of the Town as the context requires.
 12. "Weekday" means any day other than a Sunday or holiday.
 13. "Weekend" means Sunday and any other holiday.

3.

1. Except to the extent allowed under this bylaw, no person shall

make continue to make or cause or allow to be made or continued any loud, unnecessary or unusual noise or any noise which annoys, disturbs, injures, endangers, or detracts from the comfort, repose, health, peace or safety of other persons within the limits of the Town.

2. What constitutes a loud noise, an unnecessary noise, an unusual noise or a noise which annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others is a question of fact to be determined by the Court which hears the prosecution of an offence against this bylaw.

3. Where an activity which is not specifically prohibited or restricted by any legislation of Canada or the Province of Alberta or by this bylaw involves making a sound, which:

- a) Is or may be or may become; or
- b) Creates or produces or may create or produce;

a disturbance or annoyance to other people or a danger to the comfort, repose, health, peace or safety of others, a person engaged in that activity shall do so in a manner creating as little as practicable under the circumstances.

4.

1. The failure of a person to comply within the Town with the following provisions of the Traffic Safety Act and Regulations:

- a) The prohibition against the use of Signalling devices on motor vehicles, motorcycles, or bicycles so as to make more noise than is reasonably necessary for the purpose of giving notice or warning to other persons on the highway, as set out in subsection (2) of Section 63 of the Highway and Rules of the Road Regulation;
- b) The restrictions on the type or use of mufflers and similar equipment on motor vehicles, as set out in Section 61 (1) of the Vehicle Equipment Regulation;
- c) The prohibition against equipping a vehicle other than those specified with a siren, as set out in Section 74 of the Vehicle Equipment Regulation;

constitutes a violation of this bylaw in addition to and not in substitution for the offence under the Traffic Safety Act, S.A. 2003.

2. Where a person operates a vehicle of any type on a street in a Residential Zone at any time in such a way as to unduly disturb the residents of that street, he/she is guilty of an offence under this bylaw in addition to and not in substitution for any offence of which he/she may be guilty under Section 13(1)(g)(iii) of the Traffic Safety Act.

3. No person may activate or apply engine retarder brakes in the Town.

4. Where a vehicle is equipped with a siren under Section 74 of the Vehicle Equipment Regulations, the driver thereof shall only use the siren when the vehicle is proceeding in response to an emergency call.

5. Subsection 4.4 does not apply to the use of a siren on a vehicle operated by a member of the Royal Canadian Mounted Police, or a Special Constable.

5.

1. Nothing in this bylaw shall prevent the continual operation or carrying on of an industrial activity where the activity is one which:

- a) Is a permitted use; or
- b) Is an approved discretionary use; or
- c) Is a non-conforming, but not illegal, use as defined in the Municipal Government Act.

2. In the operation or carrying on of an industrial activity, the person operating or carrying on that activity shall make no more noise than is necessary in the normal method of performing or carrying on that activity.

6. No person shall operate an outdoor speaker system on a parcel where a property line of the Parcel is within 150 meters of a Residential Development during the period beginning at 10:00 p.m. and ending at 9:00 a.m. the following day.

7.

1. A person must not operate:

- a) A motorized garden tool;
- b) A power tool outside any building or structure;
- c) Any motorized apparatus driven by an internal combustion engine of any kind; or
- d) A snow clearing device powered by an engine of any kind;

in a Residential Development during the nighttime.

2. Any person who owns, keeps, houses, harbours or allows to stay on their premise an animal which by reason of barking, or howling, disturbs persons in the vicinity of their home is guilty of an offence under this bylaw.

3. A person who owns, occupies or controls a truck-tractor or tractor-trailer must not at any time allow it to remain running for longer than 20 minutes when it is stationary in a Residential District or within 150 meters of a Residential Development.

4. A person must not use a signalling device to promote or advertise the sale of ice cream or any other foodstuffs in a Residential District during the nighttime.

8.

1. Unless written permission from the Chief Administrative Officer is first obtained, no person shall carry on the construction of any type of structure which involves hammering, sawing or the use of any machines, tools or equipment capable of creating a noise which may be heard beyond the boundaries of the site on which activity is being carried on in any District other than one designated in the Land Use Bylaw as Urban Reserve during the Nighttime.

2. Subsection 8.1. does not apply to the work of an exigent nature being carried on by a Town department, utility company or contractor acting on their behalf.

9. Notwithstanding any other provision of this bylaw, where an open area is provided for parking of patrons or employees in connection with a retail store, office, or medical and health facility, the owner or person in charge of the parking area, and making no more noise than is reasonably necessary in connection therewith may use a machine for clearing snow or debris from that open area during such hours as is necessary or expedient to keep that area clear of snow and debris.

10. Upon the issuance of a ticket for a breach of any of the Sections of the bylaw a specified penalty as identified in Appendix A and upon production of any such notice or ticket within twenty-one (21) days from the date of service of such notice, together with the payment of the sum specified to the Town such payment shall be accepted in lieu of prosecution.

a) If the person upon whom any such notice or ticket is served fails to pay the said sum within the time allotted, the provisions of this Section shall no longer apply.

b) Nothing in this Section shall:

- (i) Prevent any persons from exercising his right to defend any charge or committing a breach of this bylaw.
- (ii) Prevent any person from laying an information and complaint against any other persons for committing a breach of any of the provisions of this bylaw.
- (iii) Prevent any Bylaw Enforcement Officer or Peace Officer from laying an Information and Complaint against any other person or owner for an alleged breach of this bylaw whether or not such other person or owner has made payment under this Bylaw.

c) Where any person has made a payment to the provisions of this Section and is prosecuted for the offence in respect of which such payment has been made, such payment shall be refunded.

d) Notwithstanding 10. c):

- (i) Where any person contravenes the same provision of this bylaw twice within one twelve month period, the specified penalty payable in respect of the second contravention is outlined in Appendix A.
- (ii) Where any person contravenes the same provision of this bylaw three or more times within one twelve month period, the specified penalty payable in respect of the third or subsequent contravention is outlined in Appendix A.

- 11. A person who contravenes any provision of this bylaw is guilty of an offence and liable on summary conviction to a fine not exceeding Two Thousand Five Hundred (\$2,500) dollars or in default of payment of the fine to imprisonment for a period not exceeding six (6) months or until such fine is paid.
- 12. It is the intention of the Town Council that each separate provision of this bylaw shall be deemed independent of all other provisions herein and it is further the intention of the Town Council that if any provisions of this bylaw be declared invalid, all other provisions thereof shall remain valid and enforceable.
- 13. Bylaw Number 705-93 and amendments thereto is hereby repealed.
- 14. This bylaw comes into full force and effect on the date of final passing.

MOVED by Councillor Feist that Bylaw No. 866-18 be read a first time this 26th day of March, 2018.

MOVED by Councillor de Kok that Bylaw No. 866-18 be read a second time this 9th day of April, 2018.

MOVED by Councillor Papworth that Bylaw No. 866.18 be read a third time this 23rd day of April, 2018.

Cathy Moore
Mayor

Keith Davis
Chief Administrative Officer

APPENDIX A
PENALTY AMOUNTS

1. First Offence as per Section 10	\$200
2. Second Offence as per Section 10 d) (i)	\$400
3. Third Offence as per Section 10 d) (ii)	\$500