

# BYLAW 2022-13

## WHEATLAND COUNTY

### PROVINCE OF ALBERTA

#### 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:

#### PART 1 – INTRODUCTORY MATTERS

##### 1. Short Title

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

##### 2. 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. Definitions

- 3.1 In this Bylaw, unless the context otherwise requires:

- (a) “Chief Administrative Officer” or “CAO” means that individual appointed by Council as the Chief Administrative Officer for the County in accordance with the *Municipal Government Act*, or their designate;
- (b) “Council” means the council of the County;
- (c) “County” means Wheatland County and its duly authorized employees, agents, contractors and other representatives, or the geographic area contained within the boundaries thereof, as the context requires;
- (d) “Occupant” means a Person occupying a Property, including a lessee or licensee, who has actual use, possession or control of the Property;
- (e) “Owner” means:
  - i. 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
  - ii. in the case of any property other than land, the Person in lawful possession of it;

- (f) "Peace Officer" includes a Bylaw Enforcement Officer appointed by the County, A Peace Officer as defined in the Peace Officer Act (Alberta), and a member of the Royal Canadian Mounted Police;
- (g) "Person" means any individual, firm, partnership, association, corporation, trustee, executor, administrator or other legal representative to whom the context applies according to law;
- (h) "Property" means:
  - i. in the case of land, a parcel of land including any buildings or structures thereon; or
  - ii. in other cases, personal property.

## **PART 2 – PROHIBITION**

### **4. Noise Control**

- 4.1 No Person shall cause or permit any noise that, in the opinion of a Peace Officer, having regard for the circumstances, is likely to annoy or disturb the peace of any reasonable Person.
- 4.2 No Owner or Occupant of a Property shall permit their Property to be used so that noise from the Property, in the opinion of a Peace Officer, having regard for the circumstances, is likely to annoy or disturb the peace of any reasonable Person.
- 4.3 In determining what constitutes noise likely to annoy or disturb the peace of any reasonable Person, a Peace Officer may give consideration to:
  - (a) the nature of the noise;
  - (b) the volume of the noise;
  - (c) whether the noise is recurrent, intermittent or constant;
  - (d) the time of day and day of the week;
  - (e) the proximity of the noise to sleeping facilities;
  - (f) 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;
  - (g) the nature of the event or activity from which the noise emanates; and
  - (h) any other factor that, in the opinion of the Peace Officer, is relevant to the determination of whether the noise constitutes a disturbance.
- 4.4 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 a.m. or after 9:00 p.m. Monday through Saturday; or
  - (b) before 9:00 a.m. or after 9:00 p.m. on a Sunday or holiday.
- 4.5 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 p.m. and 7:00 a.m.
- 4.6 Nothing in this Part prohibits:
  - (a) an employee or authorized agent of the County from producing noise while acting within the scope of their functions, duties, or powers; or
  - (b) the production of noise in accordance with a permit granted pursuant to section 5.1.

## **5. Permit**

- 5.1 The Chief Administrative Officer may issue a permit, on 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.

## **PART 3 – ENFORCEMENT**

## **6. Offences and Penalties**

- 6.1 A Person who contravenes any provision of this Bylaw is guilty of an offence.
- 6.2 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.
- 6.3 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.
- 6.4 Without restricting the generality of sections 6.2 or 6.3, 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. Municipal Tag**

- 7.1 A Peace Officer is hereby authorized and empowered to issue a Municipal Tag to any Person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 7.2 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.
- 7.3 A Municipal Tag shall be in a form approved by the CAO 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.
- 7.4 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 within the time period indicated on the Municipal Tag.

## **8. Violation Ticket**

- 8.1 If a Municipal Tag has been issued and if the specified penalty has not been paid within the prescribed time, then a Peace Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to the *Provincial Offences Procedure Act*.
- 8.2 Notwithstanding section 8.1, a Peace Officer is hereby authorized and empowered to immediately issue a Violation Ticket pursuant to the *Provincial Offences*



*Procedure Act* to any person who the Peace Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.

- 8.3 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.
- 8.4 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.
- 8.5 When a Clerk of the Provincial Court records the receipt of a voluntary payment pursuant to section 8.4 and the *Provincial Offences Procedure Act*, the act of recording constitutes acceptance of the guilty plea and also constitutes a conviction and the imposition of a fine in the amount of the specified penalty.
- 8.6 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*.

## **9. Vicarious Liability**

- 9.1 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 in the course of the employee's employment with the Person, or in the course of the agent exercising the powers or performing the duties on behalf of the Person under their agency relationship.

## **10. Corporations and Partnerships**

- 10.1 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 or not the corporation has been prosecuted for the offence.
- 10.2 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.

## **11. Inspections**

- 11.1 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.

## **12. Obstruction**

- 12.1 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.

## **PART 4 – GENERAL**

## **13. Severability**

- 13.1 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.



#### **14. Repeal**

14.1 Bylaw 2012-79 is hereby repealed.

Read a first time this 3rd day of May, 2022.

Read a second time this 3rd day of May, 2022.

Read a third time and passed this 3rd day of May, 2022.



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Reeve



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Chief Administrative Officer

SCHEDULE “A”

Section	Description	Penalty			
		First Offence	Second Offence	Third Offence	Fourth or Subsequent Offence
4.1 – 4.2	Cause Noise as to Disturb the Peace	\$250	\$500	\$1,000	\$2,000
4.4	Prohibited Construction Activity	\$250	\$500	\$1,000	\$2,000
4.5	Prohibited Advertising Noise	\$250	\$500	\$1,000	\$2,000
12.1	Obstruction	\$250	\$500	\$1,000	\$2,000