



# DRAYTON VALLEY

*'Pulling Together'*

## **BYLAW NO. 2013/ 16 /P**

BEING A BYLAW OF THE TOWN OF DRAYTON VALLEY, IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF REGULATING, CONTROLLING AND ABATING NOISE WITHIN THE TOWN OF DRAYTON VALLEY.

**WHEREAS** and pursuant to Part 2, Division 1, section 7 of the *Municipal Government Act* 2000, being Chapter M.26.1 of the Revised Statutes of Alberta, the Council of a municipality is authorized to pass bylaws with respect to the health, safety and well-being of its community,

**AND WHEREAS** Town Council deems it advisable to prohibit, eliminate or abate noise within the municipality,

**NOW THEREFORE**, the Council of the Town of Drayton Valley, duly assembled, hereby enacts as follows:

1. This Bylaw may be sited as the “Noise Bylaw”.
2. The purpose of this bylaw is to regulate, control and abate noise within the boundaries of the Town of Drayton Valley, in order to promote the safe, enjoyable and reasonable use of all property for the benefit of all citizens of the Town.

### **3. Definitions:**

- 3.1 *Bylaw Enforcement Officer:* means a Bylaw Enforcement Officer appointed by the Town pursuant to the *Municipal Government Act*, to enforce the Town’s Bylaws, and includes a member of the Royal Canadian Mounted police and any Special Constable employed by the Town.
- 3.2 *Commercial District:* means a district described as such in the Town’s Land Use Bylaw;

- 3.3 Industrial District: means a district described as such in the Town's Land Use Bylaw;
- 3.4 Land Use Bylaw: means Bylaw 2007/24/D of the Town of Drayton Valley, as amended from time to time and includes any bylaw passed in substitution for or in addition to Bylaw 2007/24/D;
- 3.5 Occupant: means any person other than the registered owner who is in possession or control of a property, including, but not restricted to, a lessee, licensee, tenant or agent of the Owner.
- 3.6 Owner: means
- 3.6.1 any person(s) registered as the Owner of Property under the *Land Titles Act*;
  - 3.6.2 any person(s) who is recorded as the Owner of Property on the assessment role of the Town.
  - 3.6.3 any person(s) who has become the beneficial owner of the property, including by entering into a Purchase and Sale Agreement, whether they have purchased or otherwise acquired direct from the owner or from another purchaser, and who has not yet become the registered owner thereof;
  - 3.6.4 any person(s) holding himself out as the person exercising the power of authority of ownership or, who for the time being exercises the powers and authority of ownership over the property; and
  - 3.6.5 any person(s) in control of a property under construction; or
- 3.7 Permit: means written authorization issued by the Town pursuant to section 6.4 of this Bylaw.
- 3.8 Peace Officer: means a member of the RCMP, a Bylaw Enforcement Officer or Special Constable as appointed by the Town.

- 3.9 Person: means a corporation, partnership, society or individual, and the heirs, executors, administrators or other legal representative of an individual.
- 3.10 Property: means any lands, buildings, structures, or premises, or any personal property located thereupon, within the municipal boundaries of the Town.
- 3.11 Residential District: means a land use designation defined as such in the Town's Land Use Bylaw.
- 3.12 Town: means the Town of Drayton Valley, in the Province of Alberta.
- 3.13 Bylaw Violation Tag: means a tag or similar document issued by the Town pursuant to the *Municipal Government Act* for the purpose of notifying a person that an offence has been committed for which a prosecution may follow.
- 3.14 Violation Ticket: means a ticket issued pursuant to Part 2 of the *Provincial Offences Procedure Act S.A. 1988 C P-21.5* as amended or repealed and replaced from time to time (hereinafter the POPA) and regulations thereunder.
- 3.15 Voluntary Penalty: means a penalty specified in this bylaw for a contravention of a provision of this bylaw which amount shall be paid by a person to whom an violation ticket has been issued.

#### **4. General**

- 4.1 Except to the extent it is by this bylaw, no Person shall make, continue, cause or allow to be made or continued any loud, unnecessary, raucous, unusual or excessive noise or vibration which disturbs, annoys, injures, endangers or detracts from comfort, repose, health, peace or safety of any Person within the limits of the Town.

4.2 Except to the extent it is by this bylaw, no Person being the Owner, or Occupant of a property within the limits of the Town shall permit, suffer or allow such Property to be used in a manner such that any loud, unnecessary, unusual or excessive noise, or any noise whatsoever which emanates from the Property, annoys, endangers, detracts, disturbs or tends to disturb the health, quiet, peace, rest, enjoyment, comfort, or convenience of any Person or Persons within the limits of the Town.

4.3 No Person shall own, keep or harbor any animal or bird which makes, or causes to be made, any noise which annoys, endangers, detracts, disturbs or tends to disturb the health, quiet, peace, rest, enjoyment, comfort, or convenience of any Person or Persons within the limits of the Town.

4.4 In determining whether a noise annoys, endangers, detracts, disturbs or tends to disturb the health, quiet, peace, rest, enjoyment, comfort, or convenience of any Person or Persons within the limits of the Town, consideration may be given but is not limited to the following:

4.4.1 The type, volume and duration of the sound;

4.4.2 The time of day or night and day of the week;

4.4.3 The nature and use of the surrounding area; and

4.4.4 The nature of the activity of the Person or Persons being disturbed.

4.5 No Person shall emit or cause or permit the emission of sound or noise resulting from an act listed below if the sound or noise is clearly audible outside the Property from which the noise originates:

4.5.1 racing of any motor vehicle other than in a racing event permitted by law;

4.5.2 the operation of a motor vehicle in such a way that the tires squeal;

- 4.5.3 the operation of a vehicle, engine, motor, construction equipment, or pneumatic device without an effective exhaust or intake-muffling device or other sound attenuation device of a type specified by the manufacturer, which is in good working order and in constant operation;
- 4.5.4 the operation of a vehicle or vehicle with a trailer resulting in banging, clanking, squealing or other like sounds due to improperly secured load or equipment or inadequate maintenance;
- 4.5.5 the operation of a vehicle horn or other warning device except where required or authorized by law or in accordance with good safety practices; and
- 4.5.6 the use of engine retarder brakes within Town limits, including that portion of Highway 22 that passes through the Town.
- 4.5.7 No Person shall shout, yell, scream, or swear in any public place, except where such behaviour is generally culturally acceptable (such as at sporting events) and in any event, rude, crude or otherwise offensive language is not permitted.

## **5. Industrial Noise**

- 5.1 Notwithstanding any other provisions of this Bylaw and whether or not the noise resulting therefrom may be heard in an adjoining area which is designated other than as an Industrial District, nothing in this Bylaw shall prevent the operation or carrying on of an industrial activity at any time during the day or night in an Industrial District where the activity is one which:
  - 5.1.1 is a permitted use in the district in which it is carried on or is a discretionary use for which the required permission has been obtained; or
  - 5.1.2 is a non-conforming use as the same is defined in the Land Use Bylaw for the district in which the use is being carried on.

5.2 Notwithstanding Section 5.1 in the operation or carrying on of an industrial activity in a district which would be curtailed or restricted but for Section 5.1, the Person operating or carrying on that industrial activity shall make no more noise than is necessary in the normal method of performing or carrying on of that activity.

## 6. Construction Noises

6.1 Unless a Permit for such operation is first obtained from the Planning & Development Officer, or the Town Engineer, no Person shall carry on the construction of any type of structure which involves, but is not limited to, - hammering, sawing or the use of any mechanical tools or equipment capable of creating a sound which may be heard beyond the boundaries of the Property on which the activity is being carried out in any Agricultural District, future Residential District or an Industrial District, after 10:00 p.m. and before 7:00 a.m. of any day.

6.2 Subject to Section 7.1, unless a Permit is first obtained from the Planning & Development Officer or the Town Engineer, no Person shall operate or allow to be operated:

- 6.2.1 a riveting machine;
- 6.2.2 a concrete mixer;
- 6.2.3 a gravel crusher;
- 6.2.4 a steam shovel;
- 6.2.5 a trenching machine;
- 6.2.6 a drag line;
- 6.2.7 a backhoe;
- 6.2.8 an air or steam compressor, jack hammer or pneumatic drill;
- 6.2.9 a tractor or bulldozer; or
- 6.2.10 any other tool, device or machine of a noisy nature,

so as to create a noise, vibration or disturbance which may be heard or felt in a residential building at any time after 10:00 p.m. and before 7:00 a.m. of any day .

## 7. Exceptions and Allowances

- 7.1 Any Person performing work of an emergency nature for the preservation or protection of life, health or property is exempt from the provisions of this Bylaw. The onus shall be on the Person performing the work to show that the work was of an emergency nature for the preservation or protection of life, health or property and will be required to obtain a Permit as soon as practicable.
- 7.2 Where an activity the performance of which – would otherwise be in breach of the provisions of this Bylaw is deemed by a Peace Officer, in his sole discretions to be essential or practical, the Peace Officer may issue a Permit permitting the activity. Such Permit may be revoked at any time by the Town Manager.
- 7.3 Town-sanctioned activities are not subject to the provisions of this Bylaw. Such activities could include, but are not limited to, snow removal, street sweeping, maintenance, repair, cultural or recreational functions.
- 7.4 Notwithstanding section 7.2, Persons engaged in snow removal or street sweeping in Commercial Districts or Industrial Districts are exempt from provisions of this Bylaw.
- 7.5 Persons may operate home appliances including, but not limited to, lawn mowers, snow blowers, garden tillers, hedge trimmers, weed trimmers and air blowers, whether gas or electric provided:
  - 7.5.1 the equipment is properly maintained, to the manufacturers standards
  - 7.5.2 the equipment is operated in a normal manner for that type of equipment;
  - 7.5.3 the noise is of a temporary or intermittent nature; and
  - 7.5.4 the noise occurs between the hours of 7:00 a.m. and 10:00 p.m. of any day

- 7.6 Where an activity, which is not specifically prohibited or restricted by the Bylaw, involves creating or making a sound which is or may become, or 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 engaging in such an activity shall do so in such a manner as to create as little of such sound as practicable under the circumstances.

## **8. Permits**

- 8.1 A Planning & Development Officer may issue a Permit to a Person, group, society or organization for the purpose of allowing noise within a designated area and between designated times. The Town Manager may revoke such permit at any time.

## **9. Penalties**

- 9.3 Contravention of this bylaw is an offence and is subject to a fine not more than \$5000.00
- 9.4 A person who is guilty of an offence is liable to a fine in an amount not less than that established in this bylaw, and not exceeding \$5000.00, and to imprisonment for not more than six months for non-payment of a fine.
- 9.5 The following fine amounts are established for use on Bylaw Violation Tags and Violation Tickets if a voluntary payment option is offered:
- 9.5.1 \$250.00 for a first time offence
  - 9.5.2 \$500.00 for a second time offence
  - 9.5.3 \$5000.00 for a third and any subsequent offence
- 9.6 If a Bylaw Violation Tag is issued in respect of an offence the Bylaw Violation Tag must specify the fine amount established by this Bylaw for the offence.
- 9.7 A Person who commits an offence may, if a Bylaw Violation Tag is issued in respect of the offence, pay the fine amount established by this Bylaw for the offence and if the amount is paid on or before the required date, the Person will not be prosecuted for the offence.
- 9.8 If a Violation Ticket is issued in respect of an offence, the Violation Ticket may:
- 9.8.1 specify the fine amount established by this Bylaw for an offence; or
  - 9.8.2 require a Person to appear in court without the alternative of making a Voluntary Payment
- 9.9 A Person who commits an offence may:



- 9.9.1 if a Violation Ticket is issued in respect of an offence; and
- 9.9.2 if the Violation Ticket specifies the fine amount established by this Bylaw for the offence;  
make a Voluntary Payment equal to the specified fine.
- 9.10 If the Town Manager, or his delegate, believes, on reasonable grounds that a Person is contravening any provision of this Bylaw, the Town Manager, or his delegate, may, by written order, require any Person responsible for the contravention to remedy it and the order may:
- 9.10.1 direct the Person to stop doing something, or change the way in which the Person is doing it;
- 9.10.2 direct the Person to take any action or measures necessary to remedy the contravention of the Bylaw if necessary, to prevent a re-occurrence of the contravention;
- 9.10.3 state a time within which the Person must comply with the directions;
- 9.10.4 state that if the Person does not comply with the directions within specified time, the Town will take the action or measure.
- 9.11 A Person named in and served with an order issued pursuant to section 9.10 shall comply with any action or measure required to be taken within the time specified.
- 9.12 An order issued pursuant to section 9.10 may be served:
- (a) In the case of an individual:
- (1) By delivering it personally to the individual
  - (2) By leaving it for the individual at their apparent place of residence with someone who appears to be at least 18 years of age; or
  - (3) By mail addressed to the individual at their apparent place of residence or at any address for the individual on the tax roll of the Town or at the Land Titles registry;
- (b) In the case of a corporation:
- (1) By delivering personally to any director or officer of the corporation
  - (2) By delivering it personally to a person apparently in charge of an office of the corporation at an address held out by the corporation to be its address; or
  - (3) By mail addressed to the registered office of the corporation
- 9.13 Once a first offence has been filed, the file will remain active for a one-year period, after which the file will be closed. Any offence which occurs after the one-year period will be treated as a first offence.

**10. Interpretation and Coming into Force:**

10.1 Should any provision of this Bylaw be invalid, then the invalid provision shall be severed and the remainder of the Bylaw shall be maintained.

10.2 The provisions of this Bylaw are not intended to restrict or reduce the express statutory authority of a designated officer operating lawfully.

10.3 Town of Drayton Valley Bylaw No.81-30, and amending Bylaw 92-12 are hereby repealed.

**AND THAT** this bylaw shall come into force and have effect from and after the date of third reading thereof.

**READ A FIRST TIME THIS \_\_\_ DAY OF \_\_\_\_\_, 2013 A. D.**

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
TOWN MANAGER

**READ A SECOND TIME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013 A. D.**

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MAYOR

\_\_\_\_\_  
TOWN MANAGER

**READ A THIRD AND FINAL TIME THIS \_\_\_ DAY OF \_\_\_\_\_, 2014 A. D.**

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
TOWN MANAGER