

TOWN OF BASHAW

BY-LAW 663-2003

BY-LAW NO 663-03 BEING A BY-LAW OF THE TOWN OF BASHAW, TO PREVENT AND COMPEL THE ABATEMENT OF ACTIVITIES CREATING NOISE IN THE TOWN OF BASHAW, IN THE PROVINCE OF ALBERTA.

WHEREAS

Section 160 of the Municipal Government Act provides that the Council of a Municipality may pass by-laws for the purpose of prohibiting, eliminating or abating noise, and establishing permissible noise levels for all or varying periods of the day, in all or a designated part or location of the Municipality.

NOW THEREFORE

THE COUNCIL OF THE TOWN OF BASHAW, IN THE PROVINCE OF ALBERTA duly assembled enacts as follows:

1. This By-law may be cited as "The Noise By-Law".

2. DEFINITIONS

Wherever in this By-Law the following terms are use, they shall have the meanings respectively ascribed to them in this section.

"Bicycle" - means, a cycle propelled by human power on which a persons can ride, regardless of the number of wheels it has, and includes a vehicle that

- (i) may be propelled by muscular or mechanical power,
- (ii) is fitted with pedals that are continually operable to propel it,
- (iii) weighs not more than 35 kilograms,
- (iv) has a motor that produces not more than 750 watts and that is driven by electricity or has an engine displacement of not more than 50 cubic centimetres.
- (v) has no hand-operated or foot-operated clutch or gearbox driven by the motor that transfers power to the driven wheel, and
- (vi) does not have sufficient power to enable it to attain a speed greater than 35 kilometres per hour on level ground with a distance of 2 kilometres from a standing start.

"Council" - means the Town of Bashaw Municipal Council.

"Motorcycle" - means a motor vehicle mounted on two or three wheels and includes those motor vehicle known to the trade as motor cycles and scooters but does not include an off-highway vehicle as defined in the Off-Highway Vehicles Act.

"Motor Vehicle" - means

- (i) a vehicle propelled by any power other than muscular power, or
- (ii) a moped, but does not include a bicycle, an aircraft, a tractor, whether equipped with rubber tires or not, an implement of husbandry or a motor vehicle that runs only on rails;

"Peace Officer" - means

- (i) a member of the Royal Canadian Mounted Police,
- (ii) a member of a Municipal Police force,
- (iii) a special constable,
- (iv) a patrol officer of the Department of the Solicitor General.

"Truck" - means a vehicle designed primarily for the transportation of property or equipment but does not include a chassis cab, crawler mounted vehicle, trailer, machinery or equipment used in the construction or maintenance of highways or an off-highway vehicle as defined in the Off-Highway Vehicles Act.

"Truck Tractor" - means a truck that is designed primarily for drawing another vehicle and that is not designed to carry any load other than part of the weight of the vehicle drawn, and includes a vehicle that is designed to accommodate a fifth wheel coupling, but does not include a crane equipment breakdown vehicle.

"Vehicle" - means a device in, on or by which a person or thing may be transported or drawn on a highway.

"Town" - means the corporation of the Town of Bashaw.

3. GENERAL PROHIBITION

(a) Except to the extent it is allowed by this By-law, no person shall make, continue, cause or allow to be made or continued any loud, unnecessary or unusual noise or any noise whatsoever which either annoys, disturbs, injures, endangers, or detracts from the comfort, repose, health, peace or safety of other persons within the limits of the Town.

(b) What is 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 for a court which hears a prosecution of an offence against this By-law.

(c) Where an activity which is not specifically prohibited or restricted by any legislation or regulations of Canada or of the Province of Alberta or by any provision of this By-law involves creating or making a sound which:

- (i) is or may become, or

- (ii) 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.

4. **ABATEMENT OF NOISE**

- (a) No person shall within the corporate limits of the Town make, or cause to be made any unnecessary or unusual noise likely to disturb the peace and quiet of the Community, unless permission to do so has first been obtained in writing from the Council.
- (b) No person shall make or cause to be made any unnecessary noise likely to disturb other persons in the neighbourhood between the hours of **11:00 P.M. AND 7:00 A.M. daily.**
- (c) Where a peace officer is of the opinion that a particular noise is such that it is prohibited by this By-law, the peace officer is hereby authorized to enter any land, or buildings or premises and such peace officer may order the owner or occupant thereof to remedy any condition which is in the opinion of the peace officer a contravention of this By-law.
- (d) The peace officer who has reasonable and probable grounds to believe an offence is being committed contrary to this By-law may enter into or upon any property, as aforesaid, and may seize any noise making articles, items, equipment or any other things which, in his opinion, have or may have been used in the contravention of this By-law.

5. **MOTOR VEHICLE NOISES**

- (a) The failure of a person to comply with the Town with the following provisions of The Highway Traffic Act
 - (i) 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 Section 45;
 - (ii) the restrictions on the type or use of mufflers and similar equipment on motor vehicles and other internal combustion engines as set out in Section 46; and
 - (iii) the prohibition against equipping a vehicle other than those specified with a siren as set out in Section 45 and Section 59; shall constitute a violation of this By-Law in addition to and not in substitution for the offence created by The Highway Traffic Act.

(b) If a person operated a vehicle of any type on a street in a Residential District at any time of the day or night in such a way as to unduly disturb the residents of the street in the Residential District in which he is operating the vehicle he shall be guilty of an offence under this by-law in addition to and not in substitution for any offence of which he may be guilty against the provisions of Section 13 of The Highway Traffic Act.

(c) Where a vehicle is allowed by the provisions of Section 59 of The Highway Traffic Act to be equipped with a siren the driver thereof shall only use the siren at such times as the vehicle is proceeding in response to an emergency call and at such other times as is allowed by The Highway Traffic Act and at such times shall only use the siren when it is necessary for the purpose for which the siren is allowed to be used.

(d) Nothing in subsection (c) shall prohibit or restrict the use of a siren on a vehicle operated by a member of the Royal Canadian Mounted Police, An inspector of the Motor Transportation and Utilities Branch of the Department of the Attorney General or a Special Constable.

(e) No person shall allow the motor (diesel or other type) on a truck or a truck tractor to remain running for longer than twenty minutes while the truck or truck tractor is not in motion in any Residential District or in any other location within one-hundred fifty meters of a Residential District.

(f) The provisions of subsection (b) do not apply to work on a Town street or on a public utility carried on by

- (i) a Town Department
- (ii) Atco Gas or Telus or Aquila Networks Canada (Alberta) Ltd. or a cable television company authorized to supply cable television in the Town, or
- (iii) A contractor working for the Town, for Atco Gas or for Telus or for Aquila Networks Canada (Alberta) Ltd.

6. **RIGHT IN INSPECT**

Any persons thereunto authorized by the Council may enter any land, buildings, or premises to inspect for conditions that may constitute a nuisance or contravene or fall or come within the terms of this By-law.

7. **PENALTIES**

Any person who contravenes any provision of this By-law either by doing something which he is prohibited from or failing to do something which he is required to do so, is guilty of an offence punishable on summary conviction and is liable.

- (i) for a first offence, a fine of \$500.00 or in default of payment of the fine and costs, to imprisonment for six months;

- (ii) for a second or subsequent offence, to a fine of \$1000.00 or in default of payment of the fine and costs, to imprisonment for six months.

8. **EFFECTIVE DATE**

This By-law comes into force and effect on the final date of the passing and signing thereof.

By-Law No. 566-90 is hereby rescinded.

**THIS BY-LAW GIVEN FIRST
AND SECOND READING AND
BY UNANIMOUS CONSENT
THIRD READING AND
FINALLY PASSED THIS 08
DAY OF July ,A.D.2003**

MAYOR

MANAGER