

VILLAGE OF DUCHESS

BY-LAW NO. 356/94

A BY-LAW OF THE VILLAGE OF DUCHESS TO PROHIBIT CERTAIN ACTIVITIES CREATING NOISE AND TO ABATE THE INCIDENCE OF NOISE AND RESTRICT THE HOURS WHEN CERTAIN SOUNDS MAY BE MADE

WHEREAS Clause (9) of subsection (1) of Section 157 of the Municipal Government Act provides that Council may pass by-laws for the purpose of prohibiting eliminating or abating noise:

AND WHEREAS the incidence of noise in the Village of Duchess is such that the Council of the Village of Duchess deems it expedient that a By-law be made restricting, mitigating and abating activities which give rise to unnecessary noise in the Village especially during hours normally used for sleeping:

AND WHEREAS the intent of this by-law is that all noise shall be reduced as far as possible to be compatible with the normal activities of urban life and that unnecessary noise be eliminated.

NOW, THEREFORE, The Council of the Village of Duchess in the Province of Alberta duly assembled, enacts as follows:

1. This By-Law may be cited as "The Noise By-law".
2. In this By-law:
 - a) "Commissioner" shall mean the Commissioner of the Village of Duchess and any one acting or authorized by the Commissioner to act on his behalf.
 - b) "Commercial District" means those areas of the Village of Duchess classified as being Commercial Districts under the Land Use By-law and includes C-1 Commercial District; C-2 Commercial District; C-3 Commercial District HC-4 Highway Commercial District and those areas under direct control which have designated commercial under any Area Structure Plans.
 - c) "Holiday" means any statutory holiday as defined in the interpretation act:
 - d) "Industrial District" means those areas of the Village of Duchess classified as being industrial districts under the Land Use By-law, and includes M-1 Light Industrial District and M-2 Industrial District, and those areas under direct control which have designated industrial under any Area Structure plans.
 - e) "Land Use By-law means By-law No. 79/357, the Land Use By-law of the Village of Duchess, Alberta as amended from time to time or any By-law passed in substitution for or in addition to By-law 79/357.
 - f) "Residential Building" means a building which is constructed as a dwelling for human beings and includes a hotel or motel;
 - g) "Residential District" means those areas of the Village of Duchess classified as being residential districts under the Land Use By-law and includes R-1 Residential District, R-2 Residential District, R-3 Residential District, R-4 Residential District, RMH-1 Mobile Home Residential District, RMH-2 Residential District and those areas under direct control which have been designated as residential under any Area Structure plans.

- h) "Signalling Device" means a horn, gong, bell, claxon or other device producing an audible sound for the purpose of drawing a persons attention to an approaching vehicle, including a bicycle.
- i) "Village" means Village of Duchess or the area contained within the boundaries of the Village.

General Prohibition:

- 3. (1) Except to the extent allowed under this By-law, 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 the comfort, repose, health, peace or safety or other persons within the limits to the Village of Duchess.
- (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 the By-law.
- (3) Where an activity which is not specifically prohibited or restricted by any legislation of Canada or the Province of Alberta or by this by-law 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 sound as practicable under the circumstances.

Motor Vehicle Noises:

- 4. (1) The failure of a person to comply within the Village of Duchess with the following provisions of The Highway Traffic Act, 1975
 - (a) The prohibition against the use of signalling devices on motor vehicles, motor-cycles, or bicycles so as to make more noise than is reasonably necessary for the purposes of giving notice or warning to other persons on the highway, as set out in subsection 2 of Section 35
 - (b) The restrictions on the type or use of mufflers and similar equipment on motor vehicles, as set out in section 36
 - (c) The prohibition against equipping a vehicle other than those specified with a siren, as set out in section 45constitutes a violation of this By-law in addition to and not in substitution for the offence under The Highway Traffic Act, 1975.
- (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 is guilty of an offence under the By-law in addition to and not in substitution for any offence of which he may be guilty under Section 114 of The Highway Traffic Act, 1975.

- (3) Subsection (2) does not apply to work on a Village street or on a public utility carried on by
 - (a) Village of Duchess Public Works Department
 - (b) Canadian Western Natural Gas Limited, TransAlta Utilities Ltd., or Alberta Government Telephones; or
 - (c) A contractor working for the Village of Duchess, Canadian Western Natural Gas Limited, TransAlta Utilities Ltd., or Alberta Government Telephones.
- (4) Where a vehicle is equipped with a siren under Section 45 of The Highway Traffic Act, 1975, the driver thereof shall only use the siren
 - (a) when the vehicle is proceeding in response to an emergency call; or
 - (b) at any other time permitted under The Highway Traffic Act, 1975, and
 - (c) only when such use is necessary for the purpose set out in Clause (a) and (b) of this section.
- (5) Subsection (4) does not apply to the use of a siren on a vehicle operated by a member of the Royal Canadian Mounted Police, an inspector of the inspection service branch of the Department of Attorney General or a Special Constable.

Commercial and Industrial Noises:

5. Notwithstanding any other provision of this By-law, where an open area is provided for parking of patrons in connection with the operation of a retail store or group of retail stores, the owner or person in charge of the parking area, making no more noise than is reasonably necessary in connection therewith, may use a machine for clearing snow or debris from that area during such hours as is necessary or expedient to keep that area clear of snow and debris.
6. No person shall advertise any event or merchandise by ringing bells, calling loud, playing any type of musical or noise making instrument or by any other audible means in any part of the city other than an area classified as commercial.
7. (1) Notwithstanding any other provision of this by-law and whether or not the noise resulting therefrom may be heard in an adjoining area which is classified other than as an industrial district nothing in this by-law shall prevent the continual operation or carrying on of an industrial activity or the performance or carrying on thereof during some or any of the hours between ten o'clock in the evening and seven o'clock of the next forenoon in any area which is classed as an industrial district where the activity is one which
 - (a) is permitted use in the district in which it is carried on or is a conditional use for which the required permission has been given;
 - (b) is a non-conforming use and as the same is defined in the Land Use By-law 79/357 for the district in which the use is being carried on.

Domestic Noises:

8. (1) No person shall operate:
 - (a) a power or hand lawn mower;
 - (b) a model aircraft driven by an internal combustion engine of any description;
 - (c) a snow clearing device powered by an engine of any type;in a residential zone between the hours of
 - (a) Ten o'clock in the evening and eight o'clock in the forenoon of the next day which is a weekday; or
 - (b) ten o'clock in the evening and nine o'clock in the forenoon of the next day which is a Sunday or holiday.
- (2) A person who owns, keeps, houses, harbors, or allows to stay on his premises an animal which by reason of barking, or howling, disturbs persons in the vicinity of his home is guilty of an offence under this by-law.

Construction Noises:

9. (1) Unless permission from the Development Control Officer or his designated appointee 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 sound which may be heard beyond the boundaries of the site on which the activity is being carried on in any industrial district after the hour of ten o'clock in the evening and before the hour of seven o'clock in the forenoon of the next day.
- (2) Subsection (1) does not apply to any work carried on by the Village of Duchess or by a contractor carrying out the instruction of the Village.
10. (1) Unless permission from the Development Control Officer or his designated appointee is first obtained, no person shall operate or allow to be operated:
 - (a) a riveting machine;
 - (b) a concrete mixer;
 - (c) a gravel crusher;
 - (d) a steam shovel;
 - (e) a trenching machine;
 - (f) a drag line;
 - (g) an air or steam compressor, jack hammer or pneumatic drill;
 - (h) a tractor, back hoe or bulldozer;
 - (i) any other tool, device or machine of a noisy nature;so as to create a noise, confusion or disturbance which may be heard in a residential building between the hours of ten o'clock in the evening and seven o'clock in the forenoon of the next day.
- (2) Subsection (1) does not apply to the work of an exigent nature being carried on by the Village of Duchess Public Works Department, Alberta Government Telephones, TransAlta Utilities Ltd., or Canadian Western Natural Gas Company Limited.

Penalties:

11. A person who contravenes any provision of this By-law is guilty of an offence and liable on summary conviction to a fine not exceeding \$500.00 or in default of payment of the fine and costs to imprisonment for a period not exceeding thirty days or until such fine and costs, including costs of committal are sooner paid.

INTRODUCED AND READ THREE TIMES IN COUNCIL THIS 20th day of JUNE, 19 94



Mayor



Secretary