

TOWN OF VIKING

BY-LAW NO. 99-532

A BY-LAW OF THE TOWN OF VIKING IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF PROHIBITING, ELIMINATING OR ABATING NOISE.

WHEREAS, the Municipal Government Act, S.A. 1994, c.M-26.1, as amended, provides that the Council of a Municipality may pass a By-Law respecting the safety, health and welfare of people and the protection of people and property, respecting people, activities and things in, or near a public place or place that is open to the public, and respecting nuisances;

AND WHEREAS, the Highway Traffic Act R.S.A., c.H-7, as amended, provides that the Council of a Municipality may make bylaws defining what constitutes objectionable Noise, devising a system or method of determining or measuring that Noise, and prohibiting the operation of Motor Vehicles which in any manner make objectionable Noise;

NOW THEREFORE THE COUNCIL OF THE TOWN OF VIKING, in the Province of Alberta, duly assembled, enacts as follows:

SECTION 1 - SHORT TITLE

This by-law may be cited as the Town of Viking "Noise Control By-Law".

SECTION 2 - DEFINITIONS

- 2.1 "Chief Administrative Officer" means the Chief Administrative Officer for the Town and whatever subsequent title may be conferred on that officer by counsel or statute.
- 2.2 "Construction Equipment" includes a riveting machine, concrete mixer, gravel crusher, steam shovel, trenching machine, dragline, backhoe, air or steam compressor, jack-hammer or pneumatic drill, bulldozer, front-end loader, motor scraper, motor grader or any other tool, device, or machine of a noisy nature.
- 2.3 "Construction Noise" means Noise caused by Construction Equipment.
- 2.4 "Council" means the Council of the Town of Viking.

- 2.5 “Holiday” means any day declared as such by Municipal, Provincial or Federal authority and includes Sundays.
- 2.6 “Land Use By-Law” shall mean the Town’s Land Use By-Law No. 99-528, as amended, and includes any Bylaw passed in substitution for Bylaw No. 99-528.
- 2.7 “Motor Vehicle” means Motor Vehicle as defined in the **Highway Traffic Act**, R.S.A. 1980, c.H-7, as amended.
- 2.8 “Noise” means any sound which either annoys or disturbs Persons, or which injures, endangers or detracts from the comfort, repose, health, peace or safety of Persons within the boundary of the Town.
- 2.9 “Off-Highway Vehicle” means an Off-Highway Vehicles as defined in the **Off-Highway Vehicle Act**, R.S.A. 1980, c.0-4, as amended.
- 2.10 “Person” includes an individual, partnership, corporation, trustee, executor or administrator.
- 2.11 “Town” means the Town of Viking.
- 2.12 “Town Bylaw Enforcement Officer” means a Bylaw Enforcement Officer appointed by the Town pursuant to the **Municipal Government Act**, S.A. 1994c. M-26.1, amended, to enforce the Town Bylaws, and includes a member of the Royal Canadian Mounted Police and, when authorized, a Special Constable.
- 2.13 “Violation Tag” means a tag or similar document issued by the Town pursuant to the **Municipal Government Act, S.A. 1994, C. m-26.1**, as amended.
- 2.14 “Violation Ticket” means a ticket issued pursuant to Part II of the **Provincial Offenses Procedures Act**, R.S.A. 1988, C.P-21.5, as amended, and Regulations thereunder.

SECTION 3 - VIOLATIONS

- 3.1 Except to the extent permitted by this Bylaw, no Person shall cause or permit any other Person to:
- 3.1.1 cause a Noise within the Town;
 - 3.1.2 operate or permit any other Person to operate within the Town, a Motor Vehicle which causes a Noise.
 - 3.1.3 operate or permit any other Person to operate within the Town, an Off-Highway Vehicle which causes a Noise.
- 3.2 No Person shall allow property under their ownership or control to be used in such a way that there is Noise originating from the property.
- 3.3 A Town Bylaw Enforcement Officer may direct any Person who has caused or made a Noise, or any Person who owns or controls property from which Noise has originated, to abate or eliminate the Noise. Such a direction may be either verbal or written.
- 3.4 Where an activity which is not specifically prohibited by any federal, provincial or municipal laws or regulations, including this Bylaw and which involve reacting or making a sound which:
- 3.4.1 is or may become;
 - 3.4.2 creates or produces or may create or produce;
- a Noise, a Person engaging in such an activity shall do so in such a manner as to create as little sound as practicable under the circumstances.

SECTION 4 - PERMITS AND NON-APPLICATION OF BY-LAW

- 4.1 The Chief Administrative Officer may, upon written request, issue permission in writing to a Person for the purpose of suspending the provisions of this Bylaw, and the written permission shall specify the dates and hours during which Noise may occur (the "Permit").

- 4.2 The Chief Administrative Officer may refuse to issue a Permit, or impose any term or condition upon a Permit.
- 4.3 The applicants for a Permit may appeal either:
- (a) the refusal of an issuance of a Permit; or
 - (b) a condition(s) of the Permit;
- to Council within thirty (30) days of the receipt of the refusal, or the receipt of the issuance of the Permit.
- 4.4 On appeal under either Clause 4.3(a) or 4.3(b), Council may refuse a Permit, confirm a Permit, issue a Permit upon any terms or conditions, or vary a term(s) of condition(s) of a Permit. The decision of Council is final.
- 4.5 Any such Permit issued shall be produced to a Town Bylaw Enforcement Officer upon demand.
- 4.6 Persons owning or controlling Construction Equipment, and Persons owning or controlling land on which Construction Equipment is being operated shall be exempt from the provisions of this Bylaw if:
- 4.6.1 the Noise is generated pursuant to work done in the normal manner to that industry;
 - 4.6.2 the Noise is generated between the hours of 7:00 a.m. and 10:00 p.m. of any day excluding Holidays and between the hours of 10:00 a.m. and 10:00 p.m. on Holidays; and
 - 4.6.3 all necessary federal, provincial and municipal permits, licenses and approvals have been obtained and the work is not contrary to any federal, provincial or municipal laws or regulations.
- 4.7 This Bylaw does not Apply:
- 4.7.1 to work carried on by the Town or its agents, contractors, servants or employees, acting within the scope of their agency, contract, or employment, as the case may be; or

- 4.7.2 to the performance of any industrial activity by any Person on land where:
- 4.7.2.1 the industrial activity is:
- (a) a permitted use with Districts M under the Land Use Bylaw;
 - (b) is an approved discretionary use within Districts under the Land Use Bylaw; or
 - (c) is a non-conforming use as defined in the **Municipal Government Act**;
- 4.7.2.2 the Noise is generated pursuant to work done in the normal manner to that end; and
- 4.7.2.3 the work does not otherwise contravene any federal, provincial or municipal laws or regulations.
- 4.7.3 to Persons using domestic equipment including lawnmowers, snow blowers, garden tillers and built-in vacuum cleaners which are vented to the outside, and Persons owning or controlling property upon which such equipment is used if:
- 4.7.3.1 the Noise is of a temporary or intermittent nature;
- 4.7.3.2 the equipment is properly maintained and operated in a normal manner for that type of equipment; and
- 4.7.3.3 the Noise occurs between the hours of 7:00 a.m. and 10:00 p.m. of any day and between the hours of 10:00 a.m. and 10:00 p.m. on Holidays;
- 4.7.4 to Persons using air conditioning and cooling units in either domestic or commercial use if the units are properly maintained and are operated in a normal manner.

SECTION 5 - AUTHORIZATION TO INSPECT

- 5.1 A Town Bylaw Enforcement Officer may enter any land, building or premises to inspect for conditions that may constitute a contravention of this Bylaw.

SECTION 6 - PENALTIES

- 6.1 Any Person who contravenes any provision of this Bylaw is guilty of an offence and is liable to a penalty in the amount specified in Schedule "A".
- 6.2 Under no circumstances shall any Person contravening any provision of this Bylaw be subject to the penalty of imprisonment.

SECTION 7 - VIOLATION TAGS

- 7.1 A Town Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any Person who the Town Bylaw Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 7.2 A Violation Tag may be issued to such Person:
- 7.2.1 either personally; or
 - 7.2.2 by mail a copy of such Person at his or her last known post office address.
- 7.3 The Violation Tag shall be in a form approved by the Chief Administrative Officer and shall state:
- 7.3.1 the name of the Person;
 - 7.3.2 the offence;
 - 7.3.3 the appropriate penalty for the offence as set out herein;
 - 7.3.4 that the penalty shall be paid within thirty (30) days of the issuance of the Violation Tag;

- 7.3.5 any other information as may be required by the Chief Administrative Officer.
- 7.4 Where a contravention of this Bylaw is of a continuing nature, further Violation Tags may be issued by a Town Bylaw Enforcement Officer, provided that no more than one Violation Tag shall be issued for each day that the contravention continues.
- 7.5 Where a Violation Tag is issued pursuant to this Bylaw, the Person to whom the Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to the Town Treasurer the penalty specified in the Violation Tag.
- 7.6 Nothing in this Bylaw shall prevent a Town Bylaw Enforcement Officer from immediately issuing a Violation Ticket.
- 7.7 Where a contravention of this Bylaw is of a continuing nature, further Violation Tickets may be issued by a Town Bylaw Enforcement Officer in respect of each day or part of day on which it continues:

SECTION 8 - VIOLATION TICKETS

- 8.1 A Town Bylaw Enforcement Officer is hereby authorized and empowered to issue a Violation Ticket to any Person who the Town Bylaw Enforcement Officer believes has contravened any provision of this Bylaw.
- 8.2 Where a contravention of this Bylaw is of a continuing nature, further Violation Tickets may be issued by a Town Bylaw Enforcement Officer in respect of each day or part of day on which it continues.

SECTION 9 - SEVERABILITY PROVISION

- 9.1 Should any provision of this Bylaw be invalid, then such provision shall be severed and the remaining Bylaw shall be maintained.

SECTION 10 - REPEAL OF BYLAW 105

10.1 Bylaw No. 105 is hereby repealed.

SECTION 11 - EFFECTIVE DATE

11.1 This Bylaw shall come into effect upon third and final reading.

Read a **FIRST** time this 20th day of September, 1999.

Read a **SECOND** time this 20th day of September, 1999.

Read a **THIRD** time this 20th day of September, 1999.

SCHEDULE "A" TO BYLAW NO. 99-532

FIRST OFFENCE:	\$100.00
SECOND OFFENCE:	\$300.00
THIRD OFFENCE:	\$500.00

Each and every subsequent offence
after the third offence:

A fine of not less than
\$500.00 and not more
than \$1,000.00.

BY-LAW NO. 2003-557

**A BY-LAW OF THE TOWN OF VIKING
TO AMEND THE NOISE CONTROL BYLAW OF THE
TOWN OF VIKING**

WHEREAS the Municipal Government Act, R.S.A. 2000, as amended provides that a Municipal Council may amend its Noise Control By-Law;

WHEREAS the Council of the Town of Viking has determined that it wishes to amend its Noise Control By-Law to prohibit the use of engine retarder brakes within the Town of Viking corporate limits;

NOW THEREFORE the Council of the Town of Viking, duly assembled, enacts as follows;

A. The Noise Control by-Law of the Town of Viking, being By-law No. 99-532, is hereby amended as follows:

1. The following is added under Section 3 "Violations" under Subsection 3.1:

3.1.4 The use of engine retarder brakes are prohibited within Town corporate limits.

Read a FIRST time this 20th day of October, 2003.

Read a SECOND time this 20th day of October, 2003.

Read a THIRD and FINAL this 20th day of October, 2003.