

**TOWN OF TURNER VALLEY
BYLAW NUMBER 04-899**

**BEING A BYLAW OF THE TOWN OF TURNER VALLEY IN THE
PROVINCE OF ALBERTA PREVENTING AND COMPELLING THE
ABATEMENT OF UNNECESSARY NOISE AND OTHER NUISANCE
ACTIVITIES AND BEHAVIORS**

WHEREAS Section 7 of the *Municipal Government Act*, R.S.A. 2000, C. M-26 and amendments thereto, provides that a Municipal Council may enact bylaws respecting nuisances; the safety, health and welfare of people and the protection of people and property; and respecting people, activities and things in, on or near public places; and

WHEREAS the Council of the Town of Turner Valley deems it necessary to pass a Bylaw to provide for the prevention and to compel the abatement of unnecessary noise and nuisance activities and behaviors within the Town of Turner Valley;

NOW THEREFORE, the Council of the Town of Turner Valley in the Province of Alberta, duly assembled, hereby enacts as follows:

TITLE

1. This Bylaw may be cited as the "The Noise and Nuisance Activity Abatement Bylaw".

DEFINITIONS

2. In this Bylaw, unless the context otherwise requires:
 - .1) "CAO" means the Chief Administrative Officer for the Town of Turner Valley,
 - .2) "Construction" means the temporary process of demolishing or building any structure, or repairing or improving a building that already exists, including landscaping, home repair, property improvement and any work in connection with that process,
 - .3) "Council" means the Municipal Council of the Town of Turner Valley;
 - .4) "Court" means the Provincial Court of Alberta;

- .5) "Daytime" means the period:
- (i) beginning at 7:00 A.M. and ending at 10:00 P.M. of the same day on weekdays and;
 - (ii) beginning at 9:00 A.M. and ending at 10:00 P.M. of the same day on a weekend or statutory holiday;
- .6) "Emergency Vehicle" has the same meaning as in the Traffic Safety Act, R.S.A. 2000, c. T-6;
- .7) "Holiday" has the same meaning as in the Interpretation Act, R.S.A. 2000, c. I-8;
- .8) "Including" when introducing a list of items, does not limit the meaning of the words to those items or to items of a similar kind;
- .9) "Land Use Bylaw" means any zoning or development control bylaw in force within the town.
- .10) "Motorized Power Tool" means any tool or implement that is powered by an electric or internal combustion motor, or compressed air, including snow-blowers, lawn mowers and motorized garden tools;
- .11) "Municipal Government Act" means the Municipal Government Act, R.S.A. 2000, C. M-26;
- .12) "Night-time" means the period beginning at 10:00 P.M. and ending the following day at:
- (i) 7:00 A.M. if the following day is a Weekday; or
 - (ii) 9:00 A.M. if the following day is a Weekend;
- .13) "Noise" means any sound that annoys, aggravates, endangers or disturbs humans or animals, or which detracts from the comfort, peace, or repose of humans, including any loud music or outcry, clamour, shouting, howling, or any other sound that is loud, harsh or otherwise undesirable;
- .14) "Nuisance Activity or Behavior" means any activity or behavior that may jeopardize or interfere with:
- (i) the comfort, peace, repose, safety or well-being of others; or

- (ii) the reasonable right of other persons to the peaceful enjoyment of private property and the Public Lands located within the summer village;
- .15) "Peace Officer" means any member of the Royal Canadian Mounted Police, or Special Constable, or Municipal Peace Officer of the Town of Turner Valley.
- .16) "Person" means an individual or any business entity including a firm, partnership, association, corporation, company, or society;
- .17) "Provincial Offences Procedure Act" means the Provincial Offences Procedure Act, R.S.A. 2000, c. P-34, and the regulations thereof, as amended or replaced from time to time;
- .18) "Public Lands" means:
 - (i) property owned or operated by the Town of Turner Valley including, but not limited to all roads and streets road allowances, public parks and reserves;
 - (ii) property owned or operated by a community association or not-for-profit organization; or
 - (iii) property owned or operated by the provincial or federal government, or any agencies or departments thereof, and any associated organizations;
- .19) "Residential Area" means a district defined as such in the Land Use Bylaw under the Establishment of Land Use Districts;
- .20) "Residential Building" means a structure used as a residence containing one or more dwelling units, including a house, multi-family dwelling, apartment building, hospital, lodging, house, hotel, or motel;
- .21) "Sidewalk" means that part of a highway especially adapted to the use of or ordinarily used by pedestrians, and includes that part of a highway between the curb line (or the edge of the roadway, where there is no curb line) and the adjacent property line, whether or not paved or improved;
- .22) "Signalling Device" means any device that produces an audible sound used for the purpose of drawing a person's attention, including a horn, gong, bell or claxon or public address system;
- .23) "Speaker System" means any sound amplification device that converts electrical impulses into sound, whether the device is independent or incorporated into a radio, stereo, television,

computer, or public address system, including any such device located in a building, vehicle, or portable self-contained unit;

- .24) "Ticket" means any ticket which is authorized by the Municipal Government Act, RSA 2000 Chapter M-26, or under the Provincial Procedures Act, RSA 2000 Chapter P-34, issued for the contravention of any bylaw in which a penalty may be paid out of court in lieu of appearing to answer to a summons,
- .25) "Town" means:
- (i) the Municipal Corporation of the Town of Turner Valley, as duly established pursuant to the laws of the Province of Alberta; or
 - (ii) the area within the legal boundaries of the Town of Turner Valley, as the context of this Bylaw requires;
- .26) "Tractor Trailer" means a combination of vehicles comprised of one or more trailers used for carrying merchandise or equipment, and one truck tractor used solely for the supplying of power for propelling or hauling the trailer or trailers;
- .27) "Vehicle" has the same meaning as in the Traffic Safety Act, R.S.A. 2000, c. T-6;
- .28) "Weekday" means Monday through Saturday inclusive, with the exception of any statutory holidays;
- .29) "Weekend" means Sunday and any other holiday.

NOISE PROHIBITIONS, RESTRICTIONS and INTERPRETATIONS

3. No Person shall in either the Daytime or the Night-time:
- (a) except to the extent it is allowed by this Bylaw, make, continue, cause, or allow to be made or continued, on private property or Public Lands, any excessive, unnecessary, or unusual Noise of any type which annoys, disturbs, injures, endangers, or detracts from the comfort, repose, health, peace or safety of other persons within the limits of the Town.
 - (b) permit property that they own or control to be used so that noise annoys, disturbs, injures, endangers, or detracts from the comfort, repose, health, peace or safety of other persons within the limits of the town.

- (c) Operate, allow or permit the operation of a speaker system of any type, on private property or public lands, at an unnecessarily loud volume, thereby creating excessive noise; excepting the use of a speaker system by a golf course for the announcement of tees times for golfers or for use during town sponsored events that have been approved by the Town.
4. Whether or not a particular sound complained of constitutes a Noise, or is an "excessive, unnecessary or unusual Noise" is question of fact to be determined by a Court hearing a prosecution pursuant to the provisions of this Bylaw.
- (a) when making the determination as to whether a particular sound constitutes an "excessive, unnecessary or unusual Noise" the Court shall consider any admissible evidence as to:
- (i) the time of the disturbance complained of and whether it was during the Daytime or the Night-time;
 - (ii) the location of the disturbance and whether or not the disturbance occurred in a Residential Development;
 - (iii) the duration and nature of the disturbance; and
 - (iv) any other circumstances or factors relating to the disturbance which the Court deems are relevant to the said determination.
5. No person shall in the night time, operate, allow or permit the operation of:
- (a) a motorized power tool outside of any building or structure;
 - (b) a model aircraft, model vehicle, or similar device that is powered by an internal combustion engine; or
 - (c) a signalling device of any kind, including a vehicle horn, in the town.
6. No Person shall carry on, allow or permit the carrying on of construction outside of any building or structure within the Town in the Night-time.
7. The provisions of this bylaw do not apply to:
- (a) Emergency Vehicles;
 - (b) construction activities and related Noise during the daytime;
 - (c) work performed in relation to a highway or public utility by the owner or operator of the public utility, or its contractors.
8. The provisions of this Bylaw must not be interpreted to prevent:
- (a) the use of Signaling Devices on Vehicles in their normal operation for the purpose of giving warnings to other drivers or pedestrians;

- (b) the sounding of any alarm or warning to announce a fire or other emergency; or
- (c) the playing of a band or other activities relating to a lawful parade or public demonstration.

NUISANCE ACTIVITIES AND BEHAVIORS

9. No Person shall in either the Daytime or the Night-time:
- (a) engage in, allow, or permit others to engage in Nuisance Activities or Behaviours, whether on private property or Public Lands; or
 - (b) allow or permit any real or personal property that is owned, occupied or controlled by that Person to be used in any manner that constitutes a Nuisance Activity or Behaviour.
10. Whether or not a particular activity or behaviour constitutes a "Nuisance Activity or Behaviour", as per the definition provided in this Bylaw, is a question of fact to be determined by a Court hearing a prosecution pursuant to the provisions of this Bylaw.

DOMESTIC NOISE

11. Where a Peace Officer or a person employed by the Town as a Bylaw Enforcement Officer or any other person designated by the Town determines that a violation against any provisions of this bylaw has been committed, he may:
- (a) request that the noise cease and desist, or
 - (b) seize anything used to cause the noise, or
 - (c) in the case of a person or person in violation of any provision of this bylaw, order the person or persons to leave the location of the violation.

Should any person or persons refuse to leave the location after being so ordered, they may be arrested and lodged at the RCMP detachment, in order to prevent the continuation of the offence.

12. Where anything is seized pursuant to Section 11 of this Bylaw, this seized thing shall be returned to the owner at the conclusion of any proceedings brought against the owner.
13. No person shall operate a power or hand lawn mower in any area designated as a residential area between the night time hours.
14. 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 or bulldozer, or
- (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 during the night time hours.

These provisions do not apply to work carried out by the Town of Turner Valley or any of it's' contactors or; any other utility company.

15. No person shall operate a snow clearing device in a residential area powered by an engine of any type during the night time hours.

MOTOR VEHICLE NOISE

16. No person shall allow the motor on a school bus, any diesel operated vehicle, or a truck tractor which pulls a trailer or trailers to remain running for longer than twenty minutes while the tractor trailer or tractor alone is not in motion in any residential area or in any other location within one hundred and fifty metres of a residential area.
17. No person shall operate a vehicle of any type on a street in a residential area at any time of the day or night in such a manner as to unduly disturb the residents of said street in the residential area in which he is operating the vehicle.

These provisions do not apply to work carried out by the Town of Turner Valley or any of it's' contactors or; any other utility company.

CONSTRUCTION NOISE

18. Unless permission has been received from the Town of Turner Valley and the proper permits have been issued in accordance with the Town bylaws, no person shall carry on the construction of any type, which involves hammering, sawing or the use of machines, tools or equipment capable of creating a sound which may be heard beyond the boundaries of the site in which the construction is being carried out, in a residential area, during the night time hours.

CONDUCT ON AND USE OF PUBLIC LANDS

19. No person shall except in designated areas, light or have a fire, or set off fireworks on public lands unless said person has been so authorized by the owner or operator of the property in question, and has obtained the required and appropriate permits allowing for such activity.
20. No Person shall deface, damage, destroy or wrongfully appropriate any Public Lands or any other property owned or operated by the Town of Turner Valley.
21. No Person shall deposit refuse or litter upon any Public Lands.

GENERAL PENALTY PROVISION

22. Any Person that violates any provision of this Bylaw is guilty of an offence and is liable upon conviction to a maximum fine of \$10,000, or in default of payment of the fine to imprisonment for a period not exceeding one year, or to both fine and imprisonment in such amounts.

MINIMUM AND SPECIFIED PENALTIES

23. The minimum and specified penalty for a violation of any provision of this Bylaw is \$200.
24. Notwithstanding Section 23 of this Bylaw, if a Person violates the same provision of this Bylaw twice within a one-year period (365 days), the minimum and specified penalty for the second such violation shall be double the amount set out in Section 23. For third or subsequent offences contrary to this bylaw within a one-year period (365 days) of the first offence, the penalty shall be a fine no less than \$1000.00, with a maximum penalty to be determined by a provincial court justice or their designate.

ENFORCEMENT

25. Where a Peace Officer has reasonable grounds to believe that a Person has violated any provision of this Bylaw, the Peace Officer may commence Court proceedings against such Person by:
 - (a) Issuing the Person a Violation Ticket pursuant to the provisions of Part 2 of the Provincial Offences Procedure Act; or
 - (b) Swearing out an Information and Complaint against the Person.
26. Where a Peace Officer issues a Person a Violation Ticket in accordance with Section 18 of this Bylaw, the Officer may either:

- (a) allow the Person to pay the specified penalty as provided for the offence in Sections 16 and 17 of this Bylaw by indicating such specified penalty on the Violation Ticket; or
- (b) require a Court appearance of the Person where the Peace Officer believes that such appearance is in the public interest, pursuant to the provisions of Part 2 of the Provincial Offences Procedure Act.

SEVERABILITY AND STRICT LIABILITY OFFENCES

- 27. Each provision of this Bylaw is independent of all other provisions. If any such provision is declared invalid by a Court of competent jurisdiction, all other provisions of this Bylaw will remain valid and enforceable.
- 28. It is the intention of Council that all offences created by this Bylaw be interpreted to be strict liability offences.

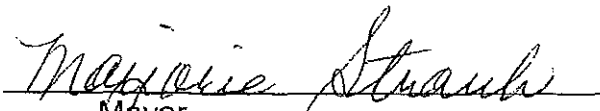
EFFECTIVE DATE

- 29. This bylaw is effective upon third and final reading.

READ a first time this 7th day of February AD 2005

READ a second time this 7th day of March AD 2005

READ a third time and finally passed this 7th day of March AD 2005



Mayor



Chief Administrative Officer