

BYLAW NO. 14-02 TOWN OF FALHER

A BYLAW OF THE TOWN OF FALHER IN THE PROVINCE OF ALBERTA TO PROHIBIT CERTAIN ACTIVITIES CREATING NOISE AND TO ABATE THE INCIDENCE OF NOISE AND RESTRICT THE HOURS WHEN CERTAIN NOISES MAY BE PERMITTED.

WHEREAS Sections 7 of the Municipal Government Act, RSA 2000, provides that Council may pass bylaws for the purpose of regulating nuisances, and

WHEREAS the incidence of noise in the Town of Falher is such that the Council of the Town of Falher deems it expedient that a Bylaw be made restricting mitigating and abating activities which give rise to unnecessary noise in the Town, especially during hours normally used for sleeping; and

WHEREAS the intent of this Bylaw 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 may be controlled.

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

1. Short Title

This Bylaw may be cited as the "Noise Bylaw".

2. Definitions

- a) "Commercial District" means those areas of the Town of Falher classified as being commercial districts under the Land Use Bylaw and includes C1 – General Commercial, C2 – Secondary Commercial, CT – Commercial Transitional and those areas under direct control which has designated commercial under any Area Structure Plans.
- b) "Holiday" means any statutory holiday which as defined in the Interpretation Act.
- c) "Industrial District" means those areas of the Town of Falher classified as being industrial districts under the Land Use Bylaw and includes M1 – Light Industrial, M2 – Heavy Industrial and those areas under direct control which have designated industrial under any Area Structure Plan.
- d) "Land Use Bylaw" means Bylaw No. 04-06, the Land Use Bylaw of the Town of Falher, Alberta as amended.
- e) "Noise" means any sound, howsoever produced, and included the sound of human voices, any sound or sounds emitted by animals, emitted by any motor vehicle or machinery or equipment or radio or television or musical instrument or any other apparatus which produces sound;
- f) "Peace Officer shall mean any member of the R.C.M.P., Community Peace Officer or any person engaged by the Town to enforce the provisions of the Bylaw.
- g) "Residential Building" means a building which is constructed as a dwelling for human beings and includes a hotel or motel.
- h) "Residential District" means those areas of the Town of Falher classified as being residential.
- i) "Signaling 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.
- j) "Town" means the Town of Falher or the area contained within the boundaries of the Town of Falher.

3. General Prohibition:

- 3.1 Except to the extent allowed under this Bylaw, 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 of other persons within the limits of the Town of Falher.

3.2 What constitutes a loud noise, an unnecessary noise, an unusual noise or a noise which annoys, disturbs, injures, 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 a offence against this Bylaw.

3.3 Where an activity is not specifically prohibited or restricted by any legislation of Canada or the Province of Alberta or by this bylaw involves making a sound, which

- a) is or may 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.

4. Motor Vehicle Noises:

4.1 The failure of a person to comply within the Town of Falher with the following provision of the Traffic Safety Act.

- a) The prohibition against the use of signalling devices on motor vehicles, motorcycles 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 in the Traffic Safety Act
- b) The restrictions on the type or use of mufflers and similar equipment on motor vehicles, as set out in the Traffic Safety Act
- c) The prohibition against equipping a vehicle other than those specified with a siren, as set out in the Traffic Safety Act

constitutes a violation of this bylaw in addition to and not in substitution for the offence under the Traffic Safety Act.

4.2 Where a person operates a vehicle of any type on a street in a residential zone at any time of the day or night in such a way as to unduly disturb the residents of that street, he is guilty of an offense under the Bylaw in addition to and not in substitution for an offence of which that person may be guilty against the provisions set out in the Traffic Safety Act, in the Use of Highway and Rules of the Road Regulations.

4.3 Section (4.2) does not apply to work on a Town Street or on a public utility carried on by

- a) Town of Falher Public Works Department
- b) Any company or corporation, which is authorized to supply electricity, water, natural gas, telephone or cable television in any part of Falher.
- c) A contractor working for the Town of Falher.

4.4 Where a vehicle is equipped with a siren under the Traffic Safety Act, 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 Traffic Safety Act, and
- c) only when such use is necessary for the purpose set out in Clause (a) and (b) of this section.

4.5 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 Peace Officer.

4.6 No person shall allow the diesel motor on a tractor which pulls a trailer or semi-truck to run in a residential area or to remain running for longer than twenty minutes in any location within one hundred fifty metres of a Residential District.

4.7 No person shall use or engage in the use of retarder brakes within the Town limits.

5. Commercial and Industrial Noises:

- 5.1 Notwithstanding any other provision of this Bylaw, where an open area is provided for parking of patrons in connection with the operation of a retail store or grounds 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 machinery 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.
- 5.2 Subject to subsection (3) 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 Town.
- 5.3 The provisions of subsection (2) shall not be construed to prevent:
- (a) The ringing of bells in churches, religious establishments and schools;
 - (b) The moderate use of musical instruments to call attention to an opportunity to contribute to a collection made for a charitable undertaking;
 - (c) The sounding of a general or a particular alarm or warning to announce a fire or other emergency or disaster;
 - (d) The sounding of factory whistles and similar devices at normal appropriate times;
 - (e) The playing of a band in connection with a parade allowed pursuant to the provisions of the Traffic Bylaw;
 - (f) The playing of a musical instrument appropriate to a street service allowed pursuant to any Bylaw in a moderate manner;
 - (g) The sounding of police whistles, police, fire or ambulance sirens;
 - (h) The sounding of horns or claxons on vehicles allowed on the streets for the purpose of and to the extent necessary to give signals or warnings to persons and vehicles using the streets; or
 - (i) The operation of a musical device approved by the Peace Officer or Bylaw inspector and installed on a vehicle equipped for the sale of ice cream or confection while the vehicle is used for such sales.
- 5.4 Notwithstanding any other provision of this bylaw and whether or not the noise resulting there from may be heard in an adjoining area which is classified other than as an industrial district nothing in this bylaw 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 Town's current Land Use Bylaw for the district in which the use is being carried on.

6. Domestic Noises:

- 6.1 No person shall operate any lawn or garden equipment and snow clearing devices powered by an engine of any type in a residential zone between the hours of:
- a) 10:00 p.m. in the evening and 8:00 a.m. of the next day from Monday to Saturday
 - b) 10:00 p.m. in the evening and 9:00 a.m. in the forenoon of the next day which is a Sunday or statutory holiday.
- 6.2 In addition to but not in substitution for any penalty which a person may incur by a contravention of any provision of the Animal Control Bylaw a person who owns, keeps, houses, harbours or allows to safety on his premises, a dog which by reason of barking or howling disturbs persons in the vicinity of his home is guilty of an offence under this Bylaw.

7. Construction Noises:

- 7.1 No person(s) shall carry on the construction of any type of structure which involves hammering, sawing or the use of any mechanical tools or equipment capable of creating a loud noise which may be heard in any residential subdivision beyond the boundaries of the site on which the activity is being carried on during quiet hours;
- 7.2 Subsection 7.1 does not apply to any work carried on by the Town of Falher or by a contractor carrying out the instructions of the town.
- 7.3 Unless permission from the Bylaw Enforcement Officer or his designated appointee is first obtained, no person shall operate or allow to be operated any equipment or machinery so as to create a noise, confusion or disturbance which may be heard in a residential building between the hours of 10:00 p.m. and 7:00 a.m. of the next day.
- 7.4 Subsection (1) does not apply to the work of an exigent nature being carried on by the Town of Falher Public Works Department, Telus, ATCO Power or ATCO Gas.

8. Penalties

- 8.1 A person who contravenes any provision of this Bylaw is guilty of an offence and liable upon summary conviction to a fine not exceeding \$500.00 or in default of payment of the fines and costs to imprisonment for a period not exceeding thirty days or until such fine and costs, including cost or committal are sooner paid.
- 8.2 Any person who contravenes this Bylaw may avoid summary conviction by the voluntary payment of a specified penalty within 30 days from the date of issuance of a violation ticket:

Section	Offense	Penalty	
		1 st Offense	2 nd Offense
3	Causing excessive noise	50.00	100.00
4	Motor vehicle noises	50.00	100.00
5	Commercial and Industrial noise	50.00	100.00
5.2	Advertisement Noise in residential zone	50.00	100.00
5.3	Industrial Noise after 10:00 p.m.	50.00	100.00
6	Domestic Noise after 10:00 p.m.	50.00	100.00
7	Construction Noises after 10:00 p.m.	50.00	100.00

9. Enactment

- 9.1 Bylaw No. 10-13 is hereby repealed.
- 9.2 This Bylaw shall be in effect on the final passing thereof.

READ a first time this _____ day of _____, 2014.

READ a second time this _____ day of _____, 2014.

READ a third time and finally passed this _____ day of _____, 2014.

MAYOR

MUNICIPAL ADMINISTRATOR