

BYLAW NO. 436-16
PROVINCE OF ALBERTA
SUMMER VILLAGE OF WEST COVE

A BYLAW OF THE SUMMER VILLAGE OF WEST COVE, IN THE PROVINCE OF ALBERTA, TO REGULATE NOISE.

WHEREAS the *Municipal Government Act* authorizes a municipal council to pass bylaws respecting the safety, health, welfare and protection of people;

AND WHEREAS Council is concerned about activities which create noise which may harm the safety, health, and welfare of Village residents and deems it desirable to pass a bylaw to regulate noise within the Summer Village of West Cove;

NOW THEREFORE the Municipal Council of the Summer Village of West Cove, duly assembled, hereby ENACTS AS FOLLOWS:

PART 1 SHORT TITLE

1 This Bylaw shall be cited as the “Noise Bylaw”.

PART 2 PURPOSE

2 The purpose of this bylaw is to regulate noise which may harm the safety, health and welfare of Village residents.

PART 3 DEFINITIONS

3 In this Bylaw:

- (a) “Bylaw” means a Village bylaw, including any amendments thereto;
- (b) “Bylaw Enforcement Officer” means an individual appointed as such in accordance with Bylaw 235-01, the “*Bylaw Officer Position Bylaw*” (as amended);
- (c) “Chief Administrative Officer” or “CAO” means the Village’s chief administrative officer;
- (d) “Community Event” means any celebration, event, activity, or thing so designated by resolution of Council, and to which this Bylaw shall not apply by reason of such designation;
- (e) “Construction Equipment” means equipment used for construction purposes and includes, without limitation, a riveting machine, concrete mixer, gravel crusher, steam shovel, dragline, backhoe, air or steam compressor, jack-hammer, pneumatic drill, tractor other than a tractor used in farming, bulldozer, front-end loader, motor scraper, motor grader, or any other tool, device or machine of a noisy nature;
- (f) “Construction Noise” means Noise caused by Construction Equipment;
- (g) “Council” means the Village’s municipal council;
- (h) “Court” means the Provincial Court of Alberta;

- (i) "Domestic Equipment" means equipment of a household or personal use nature and includes, without limitation, lawnmowers, snow blowers, garden tillers, and built-in vacuum cleaners which are vented to the outside;
- (j) "Emergency Vehicle" means:
 - (i) a Vehicle operated by a Peace Officer or police service as defined in the *Police Act* R.S.A. 2000, Ch.P-17 (as amended),
 - (ii) a fire-fighting or other type of Vehicle operated by the fire protection service of a municipality,
 - (iii) an ambulance operated by a Person or organization providing ambulance services,
 - (iv) a Vehicle operated as a gas, power or water disconnection unit of a public utility, or
 - (v) a Vehicle designated by regulation as an emergency response unit;
- (k) "Holiday" means:
 - (i) every Sunday,
 - (ii) New Year's Day, Alberta Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Labour Day, Remembrance Day and Christmas Day,
 - (iii) the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning sovereign,
 - (iv) December 26, or when that date falls on a Sunday or a Monday, then December 27,
 - (v) any day appointed by proclamation of the Governor General in Council or by proclamation of the Lieutenant Governor in Council for a public holiday or for a day of fast or thanksgiving or as a day of mourning, and
 - (vi) with reference to any particular part of Alberta, the day in each year that may by proclamation of the Lieutenant Governor in Council be appointed as a public holiday for that part of Alberta for the planting of forest or other trees;
- (l) "Land Use Bylaw" means Land Use Bylaw 417-16 (as amended, or replaced);
- (m) "Municipal Violation Tag" means a Village-issued notice that alleges an offence and provides a person with the opportunity to pay an amount to the Village in lieu of prosecution for the offence;
- (n) "Noise" means any sound which in the opinion of a Peace Officer, having regard for the circumstances, including the time of day and nature of the activity generating the sound, is likely to unreasonably annoy, disturb, injure, endanger or detract from the comfort, repose, health, peace or safety of others. Without limiting the generality of the foregoing, Noise may include loud music or loud party activities, or continuous yelling or shouting;
- (o) "Occupant" means any Person who is found in any property, whether or not he or she is the owner or tenant of the property and whether or not he or she resides in the property;

- (p) "Peace Officer" means a Person employed for the purposes of preserving and maintaining the public peace, and includes:
 - (i) A member of the Royal Canadian Mounted Police;
 - (ii) A Community Peace Officer;
 - (iii) a provincially-appointed Special Constable, and
 - (iv) a Bylaw Enforcement Officer authorized to enforce this Bylaw in accordance with his or her appointment;
- (q) "Person" includes any individual, corporation, society, association, partnership or firm, trustee, executor, administrator, or other legal representative;
- (r) "Residential District" means a district zoned as residential under the Land Use Bylaw;
- (s) "Residential Building" means a building which is constructed as a dwelling or residence;
- (t) "Schedule" means a schedule attached to and forming part of this Bylaw;
- (u) "Time" means either Mountain Standard Time or Mountain Daylight Savings Time, whichever is proclaimed to be in effect in Alberta;
- (v) "Village" means the Sumer Village of West Cove, a municipal corporation of the Province of Alberta, and includes, where the context so requires, the area contained within the boundaries of the Summer Village of West Cove;
- (w) "Violation Ticket" means a violation ticket issued in accordance with the *Provincial Offences Procedure Act* R.S.A. 2000, c.P-34 (as amended).
- (x) "Weekday" means a day other than a Holiday.

PART 4 GENERAL PROHIBITION

4 Except to the extent it is allowed by this Bylaw, no Person shall make, continue, cause, or allow to be made or continued any Noise within the boundaries of the Village.

5 An owner or Occupant of property or thing from which a Noise is prohibited by section 4 originated shall forthwith take such steps as may be necessary to cause the making of such Noise to stop and to prevent the continuation or resumption of the Noise.

6 Where an activity which is not specifically prohibited or restricted in any other provisions of any legislation or regulations of Canada or the Province of Alberta, or by any other provision of this Bylaw, involves creating or making a sound which:

- (1) Is or may become, or
- (2) Creates or produces or may create or produce a disturbance of annoyance to other people or a danger to the comfort, repose, health, peace or safety of others,

a person engaging in such activity shall do so in such a manner as to create as little of such sound as is practicable under the circumstances.

PART 5 CONSTRUCTION NOISE

7 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 provided that:

- (1) The Noise is generated pursuant to work done in the normal manner to that in the industry;
- (2) The Noise is generated between the hours of 7:00 AM and 10:00 PM; and
- (3) All necessary federal, provincial, and municipal permits, licenses and approvals have been obtained for the work being done, and the work is not contrary to any federal, provincial or municipal laws or regulations.

PART 6 DIESEL ENGINES

8 No Person shall permit, at any time, a stationary vehicle with a diesel engine to remain running for longer than twenty (20) minutes at a time in a Residential District.

PART 7 NON-APPLICATION OF BYLAW

9 This Bylaw does not apply to:

- (1) Persons using Domestic Equipment and Persons owning or controlling property on which Domestic Equipment is used if:
 - (a) The Noise is of a temporary or intermittent nature;
 - (b) The Domestic Equipment is properly maintained and operated in a normal manner for the type of equipment in question; and
 - (c) The Noise occurs between the hours of 7:00 AM and 10:00 PM;
- (2) Community Events;
- (3) A Person operating an Emergency Vehicle in the normal course of that Person's employment;
- (4) A Person sounding an alarm or warning to announce a fire or other emergency event (unless the event is determined by emergency response officials to be a false alarm); and
- (5) A Person acting in the normal course of that Person's employment as a Village employee.

PART 8 ENFORCEMENT

Offence

10 A person who contravenes any provision of this Bylaw either by doing something which he or she is prohibited from doing or by failing to do something he or she is required to do is guilty of an offence.

Continuing Offence

11 In the case of an offence that is of a continuing nature, a contravention of a provision of this Bylaw constitutes a separate offence with respect to each day, or part of a day, during which the contravention continues, and a person guilty of such an offence is liable to a fine in an amount not less than that established by this Bylaw for each such separate offence.

Fines and Penalties

- 12 A Person who is guilty of an offence under this Bylaw is liable:
- (1) to a fine as prescribed in Schedule A; or
 - (2) on summary conviction, to a fine not exceeding \$10,000.00 or to an order of imprisonment for not more than 1 year, or both.

Municipal Violation Tag

13 A Peace Officer, or Bylaw Enforcement Officer, may issue, with respect to an offence under this Bylaw, a Municipal Violation Tag specifying the fine amount established by this Bylaw.

14 Where a Municipal Violation Tag is issued, the fine amount indicated thereon may be paid as directed in lieu of prosecution.

Violation Ticket

15 A Peace Officer, or Bylaw Enforcement Officer, may issue, with respect to an offence under this Bylaw, a Violation Ticket:

- (1) specifying the fine amount established by this Bylaw; or
- (2) requiring an appearance in court without the option of making a voluntary payment.

16 Where a Violation Ticket specifies a fine amount, a voluntary payment equal to the specified fine amount may be made as directed.

Service of Notice in respect of Violation Ticket

17 A Violation Ticket issued to any Person in respect of this Bylaw shall be deemed to be sufficiently served if:

- (1) Served personally on the Occupant of the property from which the Noise originated;
- (2) Mailed by registered or other recorded mail to the address of the owner of the property from which the Noise originated as recorded on the Village Tax Roll; or
- (3) Left at the residence of the accused Person in care of a person who appears to be at least 18 years of age.

PART 9 GENERAL

Power of the Chief Administrative Officer

- 18 Without restricting any other power, duty or function granted by this Bylaw the CAO may:
- (1) Carry out any inspections to determine compliance with this Bylaw;
 - (2) Take any steps or carry out any actions required to enforce this Bylaw;
 - (3) Take any steps or carry out any actions required to remedy a contravention of this Bylaw;
 - (4) Establish investigation and enforcement procedures with respect to residential, commercial, industrial or other types of property and such procedures may differ depending on the type of property in question;

- (5) Establish forms for the purpose of this Bylaw; and
- (6) Delegate any powers, duties or functions under this Bylaw to an employee or contractor of the Village.

Severability

19 Should any provision of this Bylaw be invalid, then such provision shall be severed and the remainder of the Bylaw shall remain in force.

Number and Gender References

20 All references in this Bylaw will be read with such changes in number and gender as may be appropriate according to whether the reference is to a male or female Person, or a corporation or partnership.

Liability

21 The Village, any Designated Officer or any Person who inspects any Property under this Bylaw, or any Person who performs any work on behalf of the Village to remedy a contravention of this Bylaw is not liable for any damages caused by the inspection, the work or disposing of anything to complete the work set out in the order.

Enforcement of this Bylaw

22 The Village is not required to enforce this Bylaw. In deciding whether to enforce this Bylaw, the Village may take into account any practical concerns, including available municipal budget and personnel resources.

Bylaw Coming into Effect

23 This Bylaw takes effect on the final passing thereof and, on such final passing, Bylaw 298-11, is hereby repealed.

READ A FIRST TIME IN COUNCIL THIS 15th DAY OF December 2016

READ A SECOND TIME IN COUNCIL THIS 15th DAY OF December 2016

READ A THIRD TIME IN COUNCIL THIS 15th DAY OF December 2016

SUMMER VILLAGE OF WEST COVE

Ren Giesbrecht
Mayor

Wendy Wildman
Chief Administrative Officer

SCHEDULE A
TO NOISE BYLAW 436-16

Offence	Section	Specified Penalty (1 st Offence) (Dollars)	Specified Penalty (2 nd or subsequent offence) (Dollars)
PART 4			
Cause unreasonable Noise	4	150	300
PART 5			
Prohibited construction work	7	150	300
PART 6			
Prohibited Diesel Engine idling	8	150	300