

BYLAW 2020-11

BEING A BYLAW TO PREVENT AND COMPEL THE ABATEMENT OF ACTIVITIES, PROPERTY OR THINGS CREATING NOISE THAT IS A NUISANCE IN THE TOWN OF STETTLER, IN THE PROVINCE OF ALBERTA.

WHEREAS, the Municipal Government Act R.S.A., 2000, Chapter M-26 with amendments thereto, provides that the Council of a municipality may pass bylaws for the purpose of prohibiting or regulating nuisances including eliminating or abating noise that is a nuisance, and establishing or regulating permissible noise levels for all or varying periods of the day, in all or a designated part or location of the municipality.

NOW THEREFORE, the Council of the Town of Stettler enacts as follows:

1. This bylaw may be cited as the “Noise Bylaw.”

2. **Definitions**

Words defined in the:

- (i) “Traffic Safety Act” being Chapter T-6 of the Revised Statutes of Alberta, 2000 and amendments thereto;
- (ii) “Traffic Safety Act - Vehicle Equipment Regulation” being Alberta Regulation 122/2009 and amendments thereto;
- (iii) “Traffic Safety Act - Use of Highway and Rules of the Road Regulation” being Alberta Regulation 304/2002 and amendments thereto;
- (iv) “Interpretation Act” being Chapter I-8 of the Revised Statutes of Alberta, 2000 and amendments thereto;
- (v) “Municipal Government Act” being Chapter M-26 of the Revised Statutes of Alberta, 2000 and amendments thereto;

Shall have the same meaning when used in this bylaw unless defined in this bylaw or unless the context otherwise requires.

“Bicycle”- means a cycle propelled by human power on which a person can ride, regardless of the number of wheels it has and includes a vehicle that:

- (i) may be propelled by muscular or mechanical power;
- (ii) is fitted with pedals that are continually operable to propel it;
- (iii) weighs not more than thirty-five (35) kilograms;
- (iv) has a motor that produces not more than seven hundred and fifty (750) watts and that is driven by electricity or has an engine displacement of not more than fifty (50) cubic centimeters.
- (v) has no hand-operated or foot-operated clutch or gearbox driven by the motor that transfers power to the driven wheel;
- (vi) does not have sufficient power to enable it to attain a speed greater than thirty-five (35) kilometers per hour on level ground with a distance of two (2) kilometers from a standing start.

“Bylaw Enforcement Officer”- means the person or persons appointed from time to time by the Town of Stettler Council to enforce and administer the bylaws of the Town of Stettler.

“Calendar Day” - means that period of time commencing at 0001 hours and ending at 2400 hours.

“Council” – means the Town of Stettler Municipal Council.

“Dwelling Unit” – means a complete building or self-contained portion of a building for the use of one or more individuals living as a single housekeeping unit, containing sleeping, cooking and separate toilet facilities intended as a permanent residence not separated from direct access to the outside by another separate or self-contained set or suite of rooms.

“Internal Combustion Engine”- means an engine, such as an automotive gasoline piston engine or a diesel, in which fuel is burned within the engine proper rather than in an external furnace, such as a steam engine.

“Motorcycle” – means a motor vehicle mounted on two (2) or three (3) wheels that includes those motor vehicles known to the trade as motorcycles and scooters but does not include an off-highway vehicle as defined in the Traffic Safety Act Section 117.

“Motor Vehicle”- means:

- (i) a vehicle propelled by any power other than muscular power, or
- (ii) a moped, but does not include a bicycle, an aircraft, a tractor, whether equipped with rubber tires or not, an implement of husbandry or a motor vehicle that runs only on rails.

“Peace Officer” – means:

- (i) a member of the Royal Canadian Mounted Police,
- (ii) a member of a municipal police force,
- (iii) a special constable,
- (iv) a Bylaw Enforcement Officer.

“Premises”- means land or building or both or part thereof occupied or used for any purpose.

“Town”- means the municipal corporation of the Town of Stettler.

“Town Manager”- means the person appointed from time to time by bylaw as the Chief Administrative Officer of the Town of Stettler.

“Truck Tractor”- means a truck that is designed primarily for drawing another vehicle and that is not designed to carry any load other than part of the weight of the vehicle drawn, and includes a vehicle that is designed to accommodate a fifth-wheel coupling, but does not include a crane equipment breakdown vehicle.

“Vehicle”- means a device in, on or by which a person or thing may be transported or drawn on a highway.

3. **GENERAL PROHIBITION**

- a. 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 whatsoever which either annoys, disturbs, injures, endangers, or detracts from the comfort, repose, health, peace or safety of other persons within the limits of the Town.
- b. In determining what constitutes noise as a nuisance that is likely to annoy or disturb the peace and comfort of other persons or the community, consideration may be given, but is not limited to:
 - i) type/source, volume/loudness and duration of the sound;
 - ii) time of the day and/or day of the week;
 - iii) outside temperature or weather;
 - iv) nature and use of surrounding area;
 - v) regularity of occurrence.
- c. What is a loud noise, or a noise which annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others is a question of fact for a court which hears a prosecution of an offence against this bylaw.
- d. Where a thing or an activity which is not specifically prohibited or restricted by legislation or regulations of Canada or the Province or Alberta or by any provision of this bylaw involves creating or making a sound which:
 - (i) is or may become, or
 - (ii) 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 other, a person engaging in such activity shall do so in such a manner as to create as little of such sound as practicable and reasonable under the circumstances.

4. **ABATEMENT OF NOISE**

- a. No person shall within the corporate limits of the Town make, or cause to be made any noise or continuous noise likely to disturb the peace and quiet of the community, unless permission to do so has first been obtained in writing from the Council.
- b. No person shall make or cause to be made any noise or continuous noise likely to disturb or annoy other persons in the neighborhood.
- c. No person shall allow property or a thing under their control or owned by that person to be used so that there originates from that property or thing any noise or continuous noise which disturbs the peace, comfort, or repose of other persons within the limits of the Town.

5. **MOTOR VEHICLE NOISES**

- a. The failure of a person to comply within the Town with the following provisions of the Traffic Safety Act, and/or the Traffic Safety Act Vehicle Equipment Regulation, and/or The Traffic Safety Act Use of Highway and Rules of the Road Regulation
 - (i) the prohibition against the use of a horn or other audible warning device on Motor Vehicle, Motorcycle, moped, power bicycle, or Bicycle so as to make more noise than is reasonably necessary for the purpose of giving notice or warning to other persons on the highway as set out in the Use of Highway and Rules of the Road Regulation Section 83(1).
 - (ii) the restrictions on the type or use of mufflers and similar equipment on Motor Vehicles and other Internal Combustion Engines as set out in the Vehicle Equipment Regulation Section 61.
 - (iii) the prohibition against equipping a Vehicle with a siren other than those specified as set out in Section 2 and Section 77 of the Vehicle Equipment Regulation.

shall constitute a violation if this bylaw in addition to and not in substitution for the offence created by the Traffic Safety Act, the Use of Highway and Rules of the Road Regulation and the Vehicle Equipment Regulation.

- b. If a person operated a Vehicle of any type on a street in a residential district at any time of the day or night in such a way as to disturb the residents of the street in the residential district in which they are operating the Vehicle that person shall be guilty of an offence under this bylaw in addition to and not in substitution for any offence of which that person may be guilty against the provisions of Section 87 of the Use of Highway and Rules of the Road Regulation.
- c. Where a Vehicle is allowed by the provisions of Section 2 of the Vehicle Equipment Regulation to be equipped with a siren the driver thereof shall only use the siren at such times as the Vehicle is proceeding in response to an emergency call as set out in Section 62 of the Use of Highway and Rules of the Road Regulation.
- d. Nothing in subsection (c) shall prohibit restrict the use of a siren on a Vehicle operated by a member of the Royal Canadian Mounted Police, an inspector of the Motor Vehicle Transportation and Utilities Branch of the Department of the Attorney General or Special Constable.
- e. No person shall allow the motor or Internal Combustion Engine (diesel or other type) on a Vehicle, Motor Vehicle, Motorcycle or Truck Tractor to remain running or idling for longer than 15 minutes while it is not in motion in any residential district so as to contravene Section 4 of this bylaw.

6. **CONSTRUCTION HOURS**

- a. No person in the Town shall on any calendar day except Sundays and statutory holidays before 0700 hours or after 2200 hours, construct, erect, reconstruct, alter, repair, demolish any building, structure, or thing or excavate or fill in land in any manner which disturbs the quiet, peace, rest, enjoyment, comfort, or convenience of the neighborhood or of the person in the vicinity.

- b. No person in the Town shall on any Sunday or Statutory holiday before 0900 hours or after 1900 hours construct, erect, reconstruct, alter, repair or demolish any building, structure, or thing or excavate or fill in land in any manner which disturbs the quiet, peace, rest, enjoyment, comfort, or convenience of the neighborhood or of the persons in the vicinity.
- c. Where it is impossible for impractical to comply with this section, the Town Manager may give written approval to carry on the work that is found to be necessary at designated hours.

Responsibility for obtaining written approval lies with the person carrying on the work.

7. **TOWN AND PUBLIC UTILITY EXCEPTIONS**

- a. In the event of an emergency the provisions of Subsection 5(b) and Section 6 do not apply to work on a Town street or on a public utility carried on by:
 - (i) a Town Department,
 - (ii) Alta Gas Utilities Inc., Telus or Atco Electric, or
 - (iii) a contractor working for the Town; Alta Gas Utilities Inc., Telus or Atco Electric.

8. **RIGHT TO INSPECT**

Any persons thereunto authorized by the Council may enter any land, buildings, or premises to inspect for conditions that may constitute a nuisance or contravene or fall or come within the terms of this bylaw.

9. **PENALTIES**

- a. Everyone who contravenes any provision of this bylaw either by doing something which is prohibited or failing to do something which is required to be done, is guilty of an offence punishable on summary conviction and is liable,
 - (i) for a first offence, to a fine of not less than \$50.00 and not more than \$500.00 or in default payment of the fine and costs, to imprisonment for up to six months;
 - (ii) for a second or subsequent offence, to a fine of not less than \$300.00 and not more than \$1000.00 or in default of payment of the fine and costs to imprisonment for up to 6 months.
- b. The owner of the premises or dwelling unit that is involved in any contravention of this bylaw may also be guilty of an offence,
 - (i) unless that person(s) proves to the satisfaction of the judge that the contravention of this bylaw was not with the person(s) consent, expressed or implied.
- c. If the courts find the owner of the premises or dwelling unit guilty of an offence a penalty in accordance with Section 9(a) of this bylaw may be imposed.

10. **GENERAL**

- a. If any term, clause or condition of this bylaw or application thereof, to anything or circumstance shall to any extent be invalid or unenforceable, the remainder of this bylaw or application of such terms, clause or condition to anything or circumstance, other than those to which it is held as invalid or unenforceable, shall not be affected there by and each other term, clause or condition of this bylaw shall be enforced to the fullest extent permitted.

b. Definitions in this bylaw shall apply to all words written whether capitalized or not.

Bylaw 1804-99 and any amendments thereto is rescinded in its entirety.

This bylaw shall come into force and effect after a third reading thereto.

READ a first time this 15th day of November, 2011

READ a second time this 15th day of November, 2011

READ a third time and finally passed this 15 day of November, 2011

Mayor

Assistant CAO