

BYLAW 2133-20

A BYLAW OF THE TOWN OF STETTLER, IN THE PROVINCE OF ALBERTA, TO AMEND BYLAW 2020-11, BEING A BYLAW TO PREVENT AND COMPEL THE ABATEMENT OF ACTIVITIES, PROPERTY, OR THINGS CREATING NOISE THAT IS A NUISANCE;

WHEREAS pursuant to the provisions of the Municipal Government Act, Chapter M26 of the RSA and amendments thereto.

THE MUNICIPAL COUNCIL OF THE TOWN OF STETTLER IN COUNCIL ASSEMBLED ENACTS AS FOLLOWS:

The Noise Bylaw No. 2020-11 is hereby amended as follows:

1. In Part 2, Definitions is amended as follows:

“Commercial District” means a district described as such in the Town's Land Use Bylaw.

“Electronic Device” means any device or mechanism which is operated by the application of electric current, and without restricting the generality of the foregoing, includes any radio receiver, radio transmitter, record or tape player or device which reproduced recorded sound, television set, amplifier and loud speaker system public address system, alarm, siren.

“Industrial District” means a district described as such in the Town's Land Use Bylaw.

“Occupant” means any person other than the registered owner who is in possession of control of a property, including, but not restricted to, a lessee, licensee, tenant or agent of the owner.

“Owner” means:

- (i) any person(s) registered as the owner of property under the *Land Titles Act*, or
- (ii) any person(s) who is recorded as the owner of property on the assessment role of the Town, or
- (iii) any person(s) who has become the beneficial owner of the property, including by entering into a purchase and sale agreement, whether they have purchased or otherwise acquired direct from the owner or from another purchaser, and who has not yet become the registered owner thereof, or
- (iv) any person(s) holding himself out as the person exercising the power of authority of ownership or, who for the time being exercises the powers and authority of ownership over the property, or
- (v) any person(s) in control of a property under construction.

“Permit” means written authorization issued by the Town pursuant to Section 5.3 of this bylaw.

“Person” means a corporation, partnership, society of individual, and the heirs, executors, administrator or other legal representative of an individual.

“Property” means any lands, building, structures, or premises, or any personal property located thereupon, within the municipal boundaries of the Town.

“Residential District” means a district described as such in the Town's Land Use Bylaw.

2. In Part 3, General Prohibitions is amended as follows:

3.1 Except to the extent it is allowed by this bylaw, no person shall make, continue, cause or allow to be made or continued any **loud, unnecessary, unusual or excessive noise** which annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons within town limits.

3.2 **Except to the extent it is allowed by this bylaw, no person shall allow property belonging to him or under his control to be used so that there originates from the property any loud, unnecessary, unusual or excessive noise** which annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons within town limits.

3.3 **In determining whether a noise annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons within town limits, consideration may be given but is not limited to the following:**

- 3.3.1 **the type, volume and duration of the sound;**
- 3.3.2 **the time of day or night and day of the week;**
- 3.3.3 **the nature and use of the surrounding area;**
- 3.3.4 **regularity of occurrence.**

3.4 **No person shall own, keep or harbour any animal or bird which makes, or causes to be made, any noise which annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons within town limits.**

3.5 **What is a loud noise, or noise which annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons** is a question of fact for a court which hears a prosecution of an offence against the bylaw.

3.6 Where a thing or activity which is not specifically prohibited or restricted by legislation or regulations of Canada or the Province of Alberta or by any provision of this bylaw involves creating or making sound which:

- 3.6.1 **is or may become, or**

3.6.2 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 persons, 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.

3.7 No person shall emit or cause or permit the emission of sound or noise resulting from an act listed below if the sound or noise is clearly audible outside the property from which the noise originates.

3.7.1 Between the hours of 0700 hours and 2200 hours on any calendar day except Sundays and statutory holidays and 900 hours and 1900 hours on Sundays and statutory holidays:

3.7.1.1 operate any engines or motor-powered machine used for snow removal, gardening, landscaping or on lawns in such a manner as to create undue noise.

3.7.1.2 operate any electronic device in such a manner as to create undue noise.

3.7.2 Where a parcel of land and boundaries thereof are zoned in a commercial or industrial district and more than 100 meters from a residential district Section 3.7.1 does not apply.

3. In Part 5, Motor Vehicle is amended as follows:

Remove specific section references in provincial legislation.

5.6 No person shall use engine retarder brakes on diesel powered vehicles within the Town Limits within town limits.

4. In Part 7, Town and Public Utility Exceptions is amended as follows

7. EXCEPTIONS AND ALLOWANCES

7.1 The provisions of this bylaw do not apply to employees or agents of the Town carrying out work defined as:

7.1.1 Essential roadway maintenance required to ensure the safe passage of motor vehicles and pedestrians, including but not limited to, snow clearing, snow removal, sanding and street sweeping.

7.1.2 Any emergency response required to ensure the continual provision of vital and essential public services provided by:

7.1.1.1 a Town Department, or

7.1.1.2 Alta Gas Utilities Inc., Telus or Atco Electric, or

7.1.1.3 a contractor working for the Town, Alta Gas Utilities Inc., Telus or Atco Electric, or

7.1.1.4 as authorized by the Town.

7.2 Town sanctioned activities are not subject to the provisions of this bylaw. Such activities could include, but are not limited to, cultural or recreational functions.

7.3 Notwithstanding any other provisions in this bylaw, Town Council may, at their discretion, issue a permit by way of exemption to the noise bylaw to any person or organization for the purpose of allowing noise within a designated area and between designated times. Such permit shall specify:

- 7.3.1 the name of the person or organization being granted the permit, and
- 7.3.2 the type of device being permitted, and
- 7.3.3 the period of time for which the permit is valid, and
- 7.3.4 any other conditions pertinent to the use of such device, having regard to the public order and peace.

5. In Part 8, Right to Inspect is amended as follows:

8.1 A designated officer may enter any property in the Town in order to carry out an inspection, enforcement or other action required or authorized by this bylaw, the *Municipal Government Act*, or any other statute.

6. In Part 9, Penalties is amended as follows:

9.1 Upon complaint by any person of unreasonable noise, a bylaw enforcement officer may, in addition to issuing any warning, or violation, or laying any information with respect to an alleged breach of this bylaw, order the occupant and any other person found therein to forthwith cease causing such noise or refrain from continuing said noise.

9.2.1 Offences:

First Offence	\$250.00
Second Offence	\$500.00
Third Offence	\$750.00

7. In Part 10, General is Amended as follows

10. MISCELLANEOUS

10.1 Any person is guilty of an offence if he or she:

- 10.1.1 fails to provide identification to a Peace Officer upon request while that Peace Officer is investigating any contravention of this Bylaw;
- 10.1.2 provide false or misleading information to any Peace Officer;
- 10.1.3 interferes with or attempts to obstruct a Peace Officer who is investigating any contravention of this Bylaw

- 8. In all parts, updated and subsequent numbering.
- 9. In all other respects, Bylaw No. 2020-11 is hereby ratified and confirmed.

Read a first time this ____day of _____, A.D. 2020.

Read a second time this ____day of _____, A.D. 2020.

Read a third and finally passed this ____day of _____, A.D. 2020.

Mayor

Assistant CAO