

BYLAW NO. 4353

A BYLAW OF THE CITY OF MEDICINE HAT to regulate noise.

WHEREAS section 7(a) of the *Municipal Government Act*, R.S.A. 2000, c. M-26 authorizes municipalities to pass bylaws respecting the safety, health and welfare of people and property;

AND WHEREAS section 7(c) of the *Municipal Government Act*, R.S.A. 2000, c. M-26 authorizes municipalities to pass bylaws respecting nuisances;

NOW THEREFORE THE MUNICIPAL CORPORATION OF THE CITY OF MEDICINE HAT, IN COUNCIL ASSEMBLED, ENACTS AS FOLLOWS:

BYLAW TITLE

1. This Bylaw may be cited as the "Community Noise Standards Bylaw".

DEFINITIONS

2. In this Bylaw:
 - (a) "**Bylaw Enforcement Officer**" means any police officer, peace officer, or other person appointed or employed by the City to enforce bylaws;
 - (b) "**Chief Administrative Officer**" means the Chief Administrative Officer of the City and includes any person to whom the Chief Administrative Officer's powers are delegated or any person appointed to act in the absence of the Chief Administrative Officer;
 - (c) "**Chief of Police**" means the Chief of Police of the City and includes any person to whom the Chief of Police's powers are delegated or any person appointed to act in the absence of the Chief of Police;
 - (d) "**City**" means the municipal corporation of the City of Medicine Hat or the area contained within the boundary thereof as the context requires;
 - (e) "**Community Event**" means any outdoor event that is operated, coordinated, authorized, or sanctioned by the City and is meant for the unhindered enjoyment and benefit of the general public (eg. festivals, parades, special events);
 - (f) "**Construction**" means the temporary process of demolishing or building any structure, or repairing or improving an existing structure, if such activity involves hammering, sawing, or the use of any machines or equipment directly related to the work being carried out and which are capable of creating a noise that may be heard beyond the boundaries of the property on which the activity is being carried on;
 - (g) "**Council**" means the Municipal Council of the City of Medicine Hat;

- (h) **"Daytime"** means the period:
 - (i) beginning at 7:00 a.m. and ending at 10:00 p.m. of the same day on a Weekday; or
 - (ii) beginning at 9:00 a.m. and ending at 10:00 p.m. of the same day on a Weekend or Holiday;
- (i) **"dB(A)"** means the sound pressure measured in decibels using the "A" weighted scale of a Sound Level Meter;
- (j) **"Holiday"** means January 1st, Alberta Family Day, Good Friday, Victoria Day, July 1st, the first Monday in August, Labour Day, Thanksgiving Day, November 11th, December 25th, and December 26th of every year;
- (k) **"Motor Vehicle"** means a vehicle propelled by any power other than muscular power;
- (l) **"Motorized Garden Tool"** means any tool used for horticulture that is powered by an electric or internal combustion engine of any kind;
- (m) **"Nighttime"** 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 or Holiday;
- (n) **"Non-Residential"** means any land within the City which is not within a Residential district as set out in the City's Land Use Bylaw;
- (o) **"person"** includes a corporation;
- (p) **"Residential"** means any land within the City which is located within one of the Residential districts as set out in the City's Land Use Bylaw;
- (q) **"Sound Level"** means the level of noise expressed in dB(A);
- (r) **"Sound Level Meter"** means a device used to measure sound pressure which meets the National Standards Institute S 1.4-1983 (R2006), or the International Electro-Technical Council Standard No. 123, or the British Standard No. 3539 Part 1, or the U.S.A. Standard S.14-1961;
- (s) **"Weekday"** means Monday through Friday, inclusive unless it falls on a Holiday; and
- (t) **"Weekend"** means Saturday and Sunday.

PURPOSE

3. The purpose of this Bylaw is to encourage good neighbour behavior while establishing the community's expectation regarding noise within the City.

PROHIBITIONS

4. No person shall:
 - (a) cause or permit any noise that disturbs or is likely to disturb the peace of any other individual; or
 - (b) cause or permit property they own, occupy, or have control of to be used so that noise from the property disturbs or is likely to disturb the peace of any other individual.

5. A person may be found guilty of a contravention of section 4 whether or not the noise:
 - (a) is measured to determine the Sound Level; or
 - (b) if measured, exceeds any limit prescribed by this Bylaw.

CRITERIA

6. In determining what constitutes noise that disturbs or is likely to disturb the peace of another individual, the following criteria may be considered:
 - (a) type, volume, and duration of the noise;
 - (b) time of day and day of week;
 - (c) nature and use of the surrounding area;
 - (d) Sound Level, if measured; and
 - (e) any other relevant factor.

CONSTRUCTION ACTIVITY

7. No person shall cause or permit any Construction
 - (a) on a Saturday before 8 a.m. or after 9 p.m.; or
 - (b) on a Sunday or a Holiday before 9 a.m. or after 9 p.m.on property zoned for Residential use that they own or occupy.

IDLING MOTOR VEHICLES

8. No person shall cause or permit a Motor Vehicle at any time to remain running for a period of time exceeding ten (10) minutes when it is stationary on a property zoned for Residential use or within one hundred fifty (150) metres of a property zoned for Residential use.

ENGINE RETARDER BRAKES

9. No person shall use engine retarder brakes to slow or stop a Motor Vehicle at any time.

MOTOR VEHICLE NOISE

10. No person shall cause noise to emanate from a Motor Vehicle that disturbs or is likely to disturb the peace of any other individual.
11. If a Motor Vehicle is the cause of any noise that contravenes a provision of this bylaw, the owner of that Motor Vehicle is liable for the contravention.
12. Section 11 does not apply if the owner, on a balance of probabilities, satisfies the court that, at the time the Motor Vehicle was involved in the contravention, the owner was not present in the Motor Vehicle and no other person was operating the Motor Vehicle with the owner's express or implied consent.

SOLID WASTE AND RECYCLING

13. No person shall collect, cause, or permit the collection of solid waste or recycling materials with a Motor Vehicle before 6 a.m. or after 9 p.m. on or adjacent to any property zoned for Residential use.

DAYTIME DECIBEL LIMIT - RESIDENTIAL

14. No person shall:
 - (a) cause any Sound Level exceeding 65 dB(A) during the Daytime, as measured at any point outside the property line of a property zoned for Residential use; or
 - (b) cause or permit property zoned for Residential use that they own or occupy to be used so that any Sound Level coming from that property exceeds 65 dB(A) during the Daytime, as measured at any point outside that property line.
15. Section 14 does not apply to Sound Levels up to:
 - (a) 70 dB(A) lasting for a total period of time not exceeding two hours during the Daytime in any one day;
 - (b) 75 dB(A) lasting for a total period of time not exceeding one hour during the Daytime in any one day;
 - (c) 80 dB(A) lasting for a total period of time not exceeding 30 minutes during the Daytime in any one day; or
 - (d) 85 dB(A) lasting for a total period of time not exceeding 15 minutes during the Daytime in any one day.

OVERNIGHT DECIBEL LIMIT - RESIDENTIAL

16. No person shall:
 - (a) cause any Sound Level exceeding 50 dB(A) during the Nighttime, as measured at any point outside the property line of a property zoned for Residential use; or

- (b) cause or permit property zoned for Residential use that they own or occupy to be used so that any Sound Level coming from that property exceeds 50 dB(A) during the Nighttime, as measured at any point outside that property line.

DECIBEL LIMIT – NON-RESIDENTIAL

17. No person shall:
- (a) cause any Sound Level exceeding 75 dB(A), as measured at any point outside the property line of a property zoned for use other than Residential; or
 - (b) cause or permit any property zoned for Non-Residential use that they own or occupy to be used so that any Sound Level coming from that property exceeds 75 dB(A), as measured at any point outside that property line.
18. Section 17 does not apply to Sound Levels up to:
- (a) 80 dB(A) lasting for a total period of time not exceeding two hours in any one day during the Daytime; or
 - (b) 85 dB(A) lasting for a total period of time not exceeding one hour in any one day during the Daytime.

EXCEPTIONS

19. The provisions of this Bylaw do not apply to:
- (a) emergency vehicles;
 - (b) subject to section 7, Construction during the Daytime on a property zoned for Residential or Non-Residential use, whether or not the Construction requires any City permits;
 - (c) use of a snow clearing device powered by an engine for the purposes of snow and ice removal from parking lots and sidewalks on a property zoned for Non-Residential use;
 - (d) use of a snow clearing device powered by an engine for the purposes of snow and ice removal from sidewalks and driveways during the Daytime on a property zoned for Residential use;
 - (e) use of a Motorized Garden Tool or grass cutting device on a golf course between the hours of 6 a.m. and 9 a.m. on any day of the week;
 - (f) use of a Motorized Garden Tool or grass cutting device during the Daytime on a property zoned for Residential or Non-Residential use;
 - (g) work on a City street or on a public utility carried out by the City or its contractors;
 - (h) the activities of the Medicine Hat Exhibition and Stampede, Spectrum Festival, or any other Community Event; and
 - (i) any activities within the sole jurisdiction of the Government of Canada or the Province of Alberta.

20. Notwithstanding section 19, the Chief of Police may revoke or modify the exceptions indicated in subsections 19(b) through 19(f) on a site-specific basis if the Chief of Police determines that it is in the public interest to do so.

EXEMPTION PERMITS

21. A person may make a written application to the Chief of Police for an exemption permit allowing for noise or Sound Levels that would otherwise violate this Bylaw.
22. Any application made pursuant to section 21 must be made at least five (5) business days prior to the proposed activity and must contain the following information pertaining to the work or activity for which the exemption is sought:
- (a) the name, address, and telephone number of the applicant;
 - (b) the address of the site;
 - (c) a description of the source(s) of noise or Sound Levels;
 - (d) the period of time that the exemption is desired;
 - (e) the applicant's reason(s) why the exemption should be given; and
 - (f) a statement of steps that will be taken to minimize the noise or Sound Levels.
23. The Chief of Police may, at his or her discretion:
- (a) waive any requirement of section 22;
 - (b) issue an exemption permit, where the Chief of Police determines that circumstances make it too onerous for the applicant to comply with this Bylaw;
 - (c) revoke any exemption permit that has been issued, where the Chief of Police determines that the applicant has not taken sufficient steps to minimize the noise or Sound Levels;
 - (d) impose any conditions on the issuance or use of the exemption permit that the Chief of Police considers appropriate; or
 - (e) refer the application to Council.
24. If an application has been referred to Council under subsection 23(e), Council may exercise any of the powers given to the Chief of Police under section 23.

APPEALS

25. A person may appeal to Council in every case where:
- (a) the Chief of Police has refused to grant or renew an exemption permit;
 - (b) the Chief of Police has revoked or modified an exception pursuant to section 20; or
 - (c) the Chief of Police has revoked an exemption permit.
26. An appeal pursuant to section 25 shall be in writing set out in the form approved by the Chief Administrative Officer, addressed to the City Clerk, and shall be

made within fourteen (14) business days after the date of the refusal, revocation or modification.

27. Council may, after hearing an appeal pursuant to section 25:
- (a) direct an exemption permit to be issued, renewed, or re-instated subject to any conditions Council deems appropriate in the circumstances;
 - (b) reverse or modify a decision of the Chief of Police made pursuant to section 20; or
 - (c) uphold the decision of the Chief of Police;
- and the Council decision is final.

OFFENCES AND PENALTIES

28. A person who contravenes any provision of this Bylaw by doing any act or thing which the person is prohibited from doing is guilty of an offence.
29. Where a Bylaw Enforcement Officer believes on reasonable and probable grounds that a person has contravened any provision of this Bylaw, the Bylaw Enforcement Officer may commence proceedings by issuing a summons by means of a violation ticket in accordance with Part 2 of the *Provincial Offences Procedure Act*, R.S.A. 2000 c. P-34.
30. The specified penalty payable in respect of a contravention of this Bylaw is the amount set out in Schedule "A" of this Bylaw.
31. Pursuant to subsection 27(2)(d) of the *Provincial Offences Procedure Act*, if the summons issued by a Bylaw Enforcement Officer under section 29 so provides, the person named in a summons may make a voluntary payment in the specified amount set out in Schedule "A" of this Bylaw and, upon making the voluntary payment, that person is not required to appear before a justice to answer the summons.
32. A person who contravenes any provision of this Bylaw is liable upon conviction to pay a fine of not less than the minimum penalty as set out in Schedule "A" of this Bylaw and not more than \$10,000 or in default of payment to imprisonment for a period of not more than one year.

OBSTRUCTION

33. No person shall obstruct or hinder any Bylaw Enforcement Officer in the execution of his or her duties pursuant to the provisions of this Bylaw, or any person acting in aid of such an officer.

GENERAL

34. In the absence of other evidence or by way of corroboration of other evidence, the Court may infer from the evidence of a Bylaw Enforcement Officer relating to the conduct of any person or persons whether ascertained or not, that the peace of another person has been disturbed or has likely been disturbed.

35. Nothing in this Bylaw relieves a person from complying with any Federal or Provincial law or regulation, any other City Bylaw, or any requirement of any lawful permit, order, or license.

SEVERABILITY

36. Each provision of this Bylaw is independent of all other provisions and if any provision of this Bylaw is declared invalid or unenforceable for any reason by a court of competent jurisdiction, all other provisions of this Bylaw shall remain valid and enforceable.

BYLAW REPEALED

37. Bylaw No. 1926 of the City of Medicine Hat is repealed.

COMING INTO FORCE

38. This Bylaw shall come into force at the beginning of the day it is passed.

READ A FIRST TIME in open Council on September 19, 2016.

READ A SECOND TIME in open Council on October 17, 2016.

READ A THIRD TIME in open Council on October 17, 2016.

SIGNED AND PASSED on October 18, 2016.

  

MAYOR: Keith E. (Ted) Clugston **CITY CLERK: Angela Cruickshank**

SCHEDULE "A"
OFFENCE PENALTIES

SECTION	OFFENCE	SPECIFIED PENALTY	MINIMUM PENALTY
4(a)	Cause or permit noise that disturbs the peace of any other person	\$400	\$300
4(b)	Cause or permit property to be used so that noise disturbs the peace of any other person	\$400	\$300
7(a)(b)	Cause or permit Construction activity when prohibited	\$350	\$250
8	Cause or permit Motor Vehicle to remain running when prohibited	\$200	\$150
9	Use of engine retarder brakes	\$350	\$250
10	Operate a vehicle in a prohibited manner	\$350	\$250
13	Collect, cause or permit collection of solid waste and/or recycling when prohibited	\$350	\$250
14(a)	Cause daytime noise as prohibited	\$400	\$300
14(b)	Cause or permit property to be used to emit daytime noise as prohibited	\$400	\$300
16(a)	Cause overnight noise as prohibited	\$400	\$300
16(b)	Cause or permit property to be used to emit overnight noise as prohibited	\$400	\$300
17(a)	Cause noise as prohibited in a non-residential development	\$350	\$250
17(b)	Cause or permit property to be used to emit noise as prohibited in a non-residential development	\$350	\$250
33	Obstruct or hinder enforcement	\$350	\$250