

BY-LAW # 5:2008

OF THE VILLAGE OF FORESTBURG
IN THE PROVINCE OF ALBERTA

A BYLAW OF THE VILLAGE OF FORESTBURG IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF PROHIBITING, ELIMINATING OR ABATING NOISE.

WHEREAS the Municipal Government Act, RSA 2000, c. M-26, as amended, repealed or replaced from time to time provides that a Council of a Municipality may pass a bylaw respecting the safety, health and welfare of people; the protection of people and property, respecting people, activities and things in, or near a public place or place that is open to the public;

AND WHEREAS the Traffic Safety Act, RSA 2000, c. T-6, as amended, repealed or replaced from time to time provides that a Council of a Municipality may make bylaws defining what constitutes objectionable Noise, devising a system or method of determining or measuring that Noise, and prohibiting the operation of Motor Vehicles that in any manner make objectionable Noise;

NOW THEREFORE THE COUNCIL OF THE VILLAGE OF FORESTBURG, in the Province of Alberta, duly assembled, enacts as follows:

1. SECTION 1 – SHORT TITLE

This Bylaw may be cited as the “**Noise Control Bylaw**”.

2. SECTION 2 – DEFINITIONS

- 2.1 “Construction Equipment” includes all equipment commonly used in construction, including but not limited to a riveting machine, concrete mixer, gravel crusher, steam shovel, trenching machine, dragline, backhoe, air or steam compressor, jack-hammer or pneumatic drill, bulldozer, front-end loader, motor scraper, motor grader, or any other tool, device, or machinery of a noisy nature.
- 2.2 “Construction Noise” means noise caused by construction equipment.
- 2.3 “Council” means the Council of the Village.
- 2.4 “Development Officer” means a Development Officer/Engineering Technician, or designate, for the Village and whatever subsequent title may be conferred on that officer by Council or statute.
- 2.5 “Enforcement Officer” means a Bylaw Enforcement Officer appointed by the Village pursuant to the Municipal Government Act, as amended, repealed or replaced from time to time and includes a member of the Royal Canadian Mounted Police and, when authorized, a Special Constable.
- 2.6 “Holiday” means any day declared as such by Municipal, Provincial, or Federal authority and includes Sundays.
- 2.7 “Land Use Bylaw” shall mean the Land Use Bylaw currently in force, as amended, repealed or replaced from time to time of the Village.
- 2.8 “Motor Vehicle” means Motor Vehicle as defined in the Highway Traffic Act, as amended, repealed or replaced from time to time.
- 2.9 “Noise” means any sound that annoys, disturbs, injures or endangers persons or that detracts from the comfort, repose, health, peace, or safety of a person within the boundary of the municipality.
- 2.10 “Off-Highway Vehicle” means an Off-Highway Vehicle as defined in the Traffic Safety Act, as amended, repealed or replaced from time to time.
- 2.11 “Person” includes an individual, partnership, corporation, trustee, executor or administrator.

2.12 "Village" means the Village of Forestburg.

2.13 "Violation Tag" means a ticket or similar document issued by the Village pursuant to the Municipal Government Act R.S.A. 2000, c.M-26, as amended, repealed or replaced from time to time and as referred to in Section 6 below.

2.14 "Violation Ticket" means a ticket issued pursuant to Part II of the Provincial Offences Procedures Act, R.S.A.2000, c.P-34, as amended, repealed or replaced from time to time and regulations there under, and as referred to in this bylaw.

3. SECTION 3 – VIOLATIONS

3.1 Except to the extent permitted by this bylaw, no Person shall cause, or permit any other Person to:

3.1.1 cause a Noise within the Village;

3.1.2 operate a Motor Vehicle that causes a Noise within the Village;

3.1.3 operate an Off-Highway Vehicle that causes Noise within the Village

3.1.4 cause any non-essential noise between 2200hrs of one day and 0700hrs of the next day or between 2200hrs of one day and 1200hrs of the next day if that next day is a holiday.

3.2 No person shall allow property under his or her ownership or control to be used in such a way that there is Noise originating from the property.

3.3 Where an activity that is not specifically prohibited by federal, provincial or municipal laws or regulations and that making a sound or reacting to a sound that

3.3.1 is, or may become,

3.3.2 creates or produces, or may create or produce

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

4. SECTION 4 – PERMITS AND NON-APPLICATION OF BY-LAW

Residents of the municipality may apply for a permit suspending the provisions of this bylaw.

4.1 The Development Officer or Village Administrator may, upon written request, issue permission in writing to a Person for the purpose of suspending the provisions of this bylaw, and the written permission shall specify the dates and hours during which Noise may occur (the "Permit").

4.2 The Development Officer or Village Administrator may refuse to issue a Permit, or impose any terms or conditions upon a Permit.

4.3 The applicants for a Permit may provide Council with a written request to review either the refusal of an issuance of a Permit or any condition(s) of the Permit to Council within thirty (30) days of the receipt of a refusal, or the receipt of issuance of the Permit.

4.4 On review under Section 4.3, Council may refuse a Permit, confirm a Permit, issue a Permit upon any terms or conditions, or vary the term(s) or condition(s) of a Permit. The decision of Council is final.

4.5 A person who has been issued a permit under this section shall produce it to an Enforcement Officer upon demand.

- 4.6 This bylaw does not apply:
- 4.6.1 to work carried on by the Village or its agents, contractors, servants, or employees, acting within the scope of their agency, contract, or employment, as the case may be, or
 - 4.6.2 to the performance of any industrial activity of any Person on land where:
 - 4.6.2.1 the industrial activity is:
 - (a) a permitted use within Districts and under the Land Use Bylaw; or
 - (b) an approved discretionary use within Districts and under the Land Use Bylaw; or
 - (c) a non-conforming use as defined in the Municipal Government Act; as amended, and
 - 4.6.2.2 the Noise is generated pursuant to work done in the normal manner to that end; and
 - 4.6.2.3 the Noise generated outside the time frames of 0700hrs and 2200hrs of any day and 1200hrs and 2200hrs on Holidays is due to causes not under the control of said industry, and
 - 4.6.2.4 provided the owner or operator of the industry provides the Village a written list specifying and explaining conditions that would result in the industry generating noise outside the above stated time frames, and
 - 4.6.2.5 the Village may accept, modify or reject any or all conditions listed and explained upon receipt of such list, or
 - 4.6.2.6 upon receipt of written complaints from village residents, and provided such complaints clearly explain why the complainant feels aggrieved, may review and accept, modify, or disallow any items on such list.
 - 4.6.3 to Persons using power tools, or using domestic equipment including, but not exclusive to, lawn mowers, snow blowers, garden tillers and built-in vacuum cleaners that are vented to the outside, and Persons owning or controlling property upon which such equipment is used if:
 - 4.6.3.1 the Noise is of a temporary or intermittent nature; and
 - 4.6.3.2 the equipment is properly maintained and operated in a normal manner for that type of equipment; and
 - 4.6.3.3 the work is done between 0700hrs and 2200hrs of any day and between 1200hrs and 2200hrs on Holidays.
 - 4.6.4 to Persons using air conditioning and cooling units in either domestic or commercial use if the units are properly maintained and are operated in a normal manner.
 - 4.6.5 to Persons using power-generating machinery that provides electricity to operate essential heating, cooling, or freezing equipment during interruptions in service normally provided by an electrical utility.
 - 4.6.6 To Persons starting or operating motor vehicles outside the time frame of this bylaw provided:
 - 4.6.6.1 all sound suppression systems on said vehicle are installed and maintained, and functioning, and

- 4.6.6.2 the operator of said motor vehicle operates said vehicle as quietly as possible, and
- 4.6.6.3 the operator of said vehicle uses a route out of the village that will have minimum impact on village residents,
- 4.6.6.4 upon receipt of written complaints that clearly explain why the complainant feels aggrieved, the Village may:
 - a. demand that the owner or operator of said vehicle provide documentation from a source certified to provide such documentation that the sound suppression system on said vehicle is installed, maintained and functioning within specifications determined by the Province of Alberta, and/or
 - b. specify the route to be taken by the operator of said vehicle in leaving the village.

5. SECTION 5 AUTHORIZATION TO INSPECT

- 5.1 An Enforcement Officer may, provided reasonable notice has been given the owner or occupier of the land unless an emergency or extraordinary circumstance exists, enter any land, building or premises to inspect for conditions that may constitute a contravention of this bylaw.
- 5.2 If a Person refuses or interferes with the entry, inspection or enforcement of this bylaw, the Village may apply to the Court of Queen's Bench for an Order restraining that person from preventing or interfering with the entry, inspection, or enforcement or any other action as the Court may order in accordance with Section 543 of the Municipal Government Act, as amended.

6. SECTION 6 – PENALTIES

- 6.1 Any person who violates or contravenes or allows, permits, or causes a person to violate or contravene any provision of this bylaw, is guilty of an offense and shall be liable on summary conviction before a Provincial Court Judge to a penalty as specified in Schedule A.1 of this bylaw.
- 6.2 In addition to the fines stipulated in section 6.1, a Provincial Court Judge may make any other order deemed appropriate concerning a breach of this bylaw.
- 6.3 An Enforcement Officer may direct any Person who has caused or made a Noise, or any Person who owns or controls property from which Noise has originated, to abate or eliminate the Noise. Such a direction may be verbal or written.
- 6.4 Notwithstanding Sections 6.1 or 6.3 of this bylaw, an Enforcement Officer may issue a violation tag to a person who the Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this bylaw:
 - (a) specifying a voluntary payment as described in Schedule A.2 of this bylaw; and
 - (b) the person to whom the violation tag is issued may, in lieu of being prosecuted for the offence, pay to the Village or the Bylaw Enforcement Officer the penalty specified within the time period indicated on the violation tag.
- 6.5 A violation tag shall be deemed to have been sufficiently served if
 - (a) served to the accused directly, or
 - (b) mailed to the address of the registered owner of the vehicle or person occupying a property, or
 - (c) secured to the vehicle or property in respect of which the offense is alleged to have been committed.

6.6 In those cases where a violation tag has been issued and the penalty specified on the violation tag has not been paid within the prescribed time, then an Enforcement Officer may issue a violation ticket specifying that a voluntary payment be made as described in Schedule A.3 of this bylaw.

6.7 Notwithstanding Section 6.4 of this bylaw, an Enforcement Officer may immediately issue a violation ticket to any person who the Enforcement Officer has reasonable grounds to believe has contravened any provisions of this bylaw, specifying that

(a) a voluntary payment be made as described in Schedule A.3 of this bylaw; or

(b) if it is in the public interest to compel the accused to appear before a Judge, issue a summons respecting any offense for which a voluntary payment may be made requiring the accused to appear before a Provincial Court Judge on the initial appearance date without the alternative of making a voluntary payment.

6.8 The levying and payment of any fines shall not relieve a person from the necessity of remedying the situation that created the violation of any section of this by-law.

7. SECTION 7 - SEVERABILITY PROVISION

7.1 Should any provision of this bylaw be invalid, then such provision shall be severed and the remaining bylaw shall be maintained.

8. SECTION 8-REPEAL

8.1 Village of Forestburg Bylaw #6/96 is hereby repealed

9. SECTION 9 – EFFECTIVE DATE

9.1 This Bylaw shall take effect on the date of passing thereof.

READ A FIRST TIME THIS 3RD DAY OF APRIL, 2008.

READ A SECOND TIME THIS 3RD DAY OF APRIL, 2008.

UNANIMOUS CONSENT FOR THIRD AND FINAL READING GIVEN THIS 3RD DAY OF APRIL, 2008

READ A THIRD AND FINAL TIME THIS 3RD DAY OF APRIL, 2008.

Mayor

Village Administrator

SCHEDULE "A"

Schedule A.1

- (a) for a first offense, a fine of \$300.00.
- (b) for a second offense, a fine of \$600.00.
- (c) for a third and subsequent offense, a fine of not less than \$1200.00.

Schedule A.2

- (a) for a first offense, a voluntary payment of \$75.00.
- (b) for a second offense, a voluntary payment of \$150.00.
- (c) for a third and subsequent offense, a voluntary payment of \$300.00.

Schedule A.3

- (a) for a first offense, a voluntary payment of \$150.00.
- (b) for a second offense, a voluntary payment of \$300.00.
- (c) for a third and subsequent offense, a voluntary payment of \$600.00.