

**BYLAW 2002 - 10**  
OF THE MUNICIPAL DISTRICT OF OPPORTUNITY NO. 17  
In the Province of Alberta

A Bylaw of the Municipal District to regulate and control noise within the Municipal District of Opportunity No. 17 in the Province of Alberta.

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**UNDER AND BY VIRTUE OF** the authority conferred upon it by the Municipal Government Act, Chapter M-26 of the Revised Statutes of Alberta, and all amendments, regulations and Ministerial Orders thereto, the Council of the Municipal District of Opportunity No. 17 in the Province of Alberta, duly assembled, enacts as follows:

1. This bylaw may be cited as the Noise Control Bylaw.
2. In this bylaw:
  - (1) "Bylaw Officer" means a Bylaw Officer of the Municipal District of Opportunity No. 17.
  - (2) "Chief Administrative Officer" means the person appointed by Council to the position of Chief Administrative Officer for the Municipal District.
  - (3) "Council" means the elected Council of the Municipal District.
  - (4) "Holiday" means any day defined as a holiday in the Interpretation Act, being Chapter I-7, R.S.A. and amendments thereto.
  - (5) "Municipal District" means the Municipal District of Opportunity No. 17 in the Province of Alberta.
  - (6) "Officer" means a Bylaw Officer of the Municipal District or a member of the R.C.M.P.
  - (7) "Official" means the Chief Administrative Officer, or any person authorized by Council or the Chief Administrative Officer to act on behalf of the Municipal District.
  - (8) "Person" includes an individual, partnership, association, company, trustee, executor, administrator or legal representative.
  - (9) "Quiet hour" means the time between the hours of 10:00 in the evening and 7:00 of the following forenoon on Sunday to Thursday, except that on Friday, Saturday and on holidays, the quiet hour shall extend from 12:00 midnight to 9:00 in the forenoon of Friday, Saturday and the holidays.
  - (10) "Residential area" means any district classed in the Municipal District's Land Use Order as *Hamlet Residential District*, *General Residential District*, *Multi-Family Residential District*, or *Red Earth Mobile Home Park District* and any grouping of cottages or dwellings near or on a lake shore and any other area in which the predominant use of buildings in the area is for single family or multiple family dwellings.
  - (11) "Provincial Offences Procedure Act" means summary conviction under and by virtue of the Criminal Code.

**PART I**  
**GENERAL PROHIBITION**

3.
  - (1) Except to the extent it is allowed by this Bylaw, no person shall make, continue to make, cause or allow to be made or continued any loud, unnecessary or unusual noise or any noise whatsoever which annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons within the boundaries of the Municipal District.
  - (2) What is a loud noise, an unnecessary noise, or an unusual noise or a noise which annoys, disturbs, injures or endangers or detracts from 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.

(3) Where an activity which is not specifically prohibited or restricted by any provision of any legislation or regulations of Canada or of the Province of 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 others, a person engaging in such an activity shall do so in such a manner as to create as little of such sound as practicable under the circumstances.

## **PART II** **SPECIFIC RESTRICTIONS**

- 4. During the quiet hour, no person shall carry on construction of any type which, without restricting the generality of the foregoing, involves hammering, sawing or the use of any machine or generator, tools or equipment capable of creating a sound which may be heard beyond the boundaries of the site on which the activity is being carried out.
- 5. During the quiet hour, no person shall load or unload commercial equipment, goods, or other materials onto or from a motor vehicle in a residential area.
- 6. During the quiet hour, no person shall operate a lawn mower, snow removal machine, chainsaw, or any other similar motor driven machine in any residential area.
- 7. No person shall own, keep or harbor any animal, including dogs, cats or other domestic or wild animal or bird, which by its cries disturbs the peace, quiet, rest or tranquillity of the surrounding neighborhood or the public at large.
- 8. No person shall operate or allow to operate any sound amplifying equipment which annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons.
- 9. No person shall operate engine retarder brakes within a hamlet or within a residential area.

## **PART III** **EXEMPTIONS**

- 10. (1) Notwithstanding the restrictions set out above, permission to exceed the limits imposed by this Bylaw may be granted by an Official of the Municipal District.  
  
(2) Such permission shall be in writing and the Official granting it is authorized to set whatever terms and conditions governing the permit he or she feels are necessary.  
  
(3) The permission may be revoked at any time if the permittee exceeds the terms and conditions of the permit, or if circumstances change to the extent that the public interest may best be served by cancelling the permit.
- 11. Section 3 of this Bylaw does not apply to members of any industrial or commercial sector engaged in legitimate industrial or commercial operations in the Green Zone, nor to a bonafide farmer in the process of carrying out legitimate farm operations, nor to a person granted a development permit authorizing him/her to exceed the limits of this Bylaw insofar as that person does not exceed the exemption granted by the development permit.

**PART IV**  
**PROCEDURE AND PROSECUTION**

12. For the purpose of procedure and prosecution under this Bylaw, the Council adopts provisions of Part XXVII of the Criminal Code of Canada respecting summary conviction; the Canada Interpretation Act; the Municipal Government Act, and the Provincial Offences Procedure Act of the Revised Statutes of Alberta, and amendments thereto.
13. The conviction of a person under the provisions of this Bylaw does not operate as a bar to further prosecution for the continued neglect or failure on the part of the person to comply with the provisions of this Bylaw, or conditions, orders or permits issued in accordance with this Bylaw.
14. While enforcing the provisions of this Bylaw, an Officer may take appropriate action relevant to stopping the noise from being caused or continued.
15. Unless prohibited by provincial statute, an Officer may use any insignia, device or piece of equipment which is reasonably necessary for carrying out duties imposed by this Bylaw.

**PART V**  
**PENALTIES**

16. (1) Any person who contravenes this Bylaw is guilty of an offence punishable on summary conviction and is subject to the following penalties:
  - (i) for a first offence - \$100.00
  - (ii) for a second offence - \$250.00
  - (iii) for subsequent offences - \$500.00

and in default of payment is liable to imprisonment for a term not exceeding one (1) month.

17. (1) A person served with notice of an offence of this Bylaw shall pay to the Municipal District the specified penalty, out of Court, and in lieu of appearing in answer to a charge or information.
  - (2) The voluntary payment option referred to in Sub-Section (1) shall be valid for no more than ten (10) days following the date of issue of the notice. Thereafter, if the person does not pay the penalty, they may be summoned to appear before a Judge in answer to a charge or information.
  - (3) Service of notice of an offence referred to in Sub-Section (1) shall be sufficient if it is:
    - (a) personally served, or
    - (b) attached to or left in or on the vehicle or property in respect of which an offence is alleged to have been committed, and/or
    - (c) mailed to the address of the person charged with the offence.

18. Notwithstanding Section 17(1), an Officer may:

- (1) Issue to a person charged with an offence a summons forming part of a "Violation Ticket" according to the Provincial Offences Procedure Act and regulations thereto, and indicate thereon the specified penalty applicable to the offence as prescribed by Section 16.

(2) Issue to a person charged with an offence, a Criminal Code Form 6 Summons requiring a person to appear before a Judge of the Provincial Court of Alberta in answer to a charge or information.

19. Any fine or penalty imposed under this bylaw shall inure to the benefit of the Municipal District.

**PART VI**  
**EFFECTIVE DATE**

20. This bylaw shall come into full force and effect on the day following the date of final passing thereof.

21. This bylaw repeals Bylaw 1996 – 09.

READ a first time this 11<sup>th</sup> day of December 2002.

READ a second time this 8<sup>th</sup> day of January 2003.

READ a third time and finally passed this 22<sup>nd</sup> day of January 2003.

  
REEVE

  
MANAGER