

BY-LAW NO. 1616

OF THE TOWN OF FORT MACLEOD IN THE PROVINCE OF ALBERTA

A By-Law of the Town of Fort Macleod for the purpose of prohibiting certain activities, which create noise, and to abate the incidence of noise and to restrict the hours when certain noises may be made.

WHEREAS pursuant to the Municipal Government Act - Chapter M-26, RSA 1995, and amendments thereto, the Council of a Town may pass By-Laws for the purpose of prohibiting, eliminating or abating noise.

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE TOWN OF FORT MACLEOD, DULY ASSEMBLED, ENACTS AS FOLLOWS:

PART I SHORT TITLE AND DEFINITIONS

1. This By-Law may be cited as: "The Noise By-Law"
2. In this By-Law, unless the context otherwise requires:
 - a) "Town" means the Municipality of the Town of Fort Macleod, or the boundaries of the Town, as the context requires;
 - b) "Municipal Manager" means the Municipal Manager of the Town of Fort Macleod and/or anyone acting in that capacity as appointed by council;
 - c) "Holidays" means any statutory holiday as defined in the Interpretation Act (Alberta);
 - d) "Hospital Zone" means an area so designed by signs or other devices, or any portion of the Town within 150 M in any direction from the boundaries of the site on which is situated a hospital as defined under the Hospital Act of Alberta;
 - e) "Commercial Property" means property so designated under the "Land-Use By-Law" of the Town of Fort Macleod;
 - f) "Industrial Land-Use District" means property so designated by the "Land-Use By-Law";
 - g) "Noise" means any sound or combination of different sounds which are disturbing in nature, unwanted, or harmful to hearing;
 - h) "Railway Land-Use District" means property so designated under the "Land-Use By-Law";
 - i) "Residential Zone" means property so designated under the "Land-Use By-Law";
 - j) "Weekday" means any day other than Sunday or a holiday;
 - k) "Enforcement Officer" means the person(s) so appointed as the Municipal Enforcement Officer, Municipal Special Constable by the Town Council of Fort Macleod or any member of the R.C.M.P.;
 - l) "Occupant" means that person who resides in and has care and control of and responsibility for the property through ownership or tenancy; whether a person is an occupant is a question of fact.

PART II APPLICATION OF BY-LAW

3. Subject to the provisions of this By-Law, every person and occupant of property SHALL conform to this By-Law or any other By-Law or Provincial Statute, applicable to Noise.
 - a) The Council of the Town of Fort Macleod has the authority to provide waivers under this by-law as they deem appropriate.

PART III APPOINTMENT, POWERS AND DUTIES OF ENFORCEMENT OFFICER

4. The Municipal Special Constable by virtue of his/her office is the officer responsible to control noise in corporate limits. In his/her absence, the Town Manager SHALL be deemed to be the Enforcement Officer.

5. The power(s) and duties of the Enforcement Officer are as follows:
- a) To receive and respond to complaints of Noise within Corporate Limits, or to assist the local Policing Authority with respect to Noise complaints as required.
 - b) To ascertain as far as possible that all information or complaints in respect to Noise are true in fact and substance.
 - c) To administer this By-Law and as far as practicable, see that all person(s) concerned conform to its provisions(s), and to prosecute person(s) who fail to comply with those provisions(s).
 - d) To issue violation ticket(s) subject to this By-Law, by way of PART II (Form B) Provincial tickets.

**PART IV
GENERAL PROHIBITION**

6. a) Except to the extent allowed under this By-Law, NO person(s) SHALL make, continue to make or cause, or allow to be made, or continue any noise within the Corporate limits of the Town of Fort Macleod.
 - b) Whether a noise is disturbing, harmful to hearing, or unwanted is a question of fact to be determined by the Court which hears the prosecution of an offence against this By-Law.
7. a) No person or occupant SHALL emit or cause or permit the emission of Noise resulting from any act as set out in this Section, if clearly audible at a point of reception located in:
- a hospital zone at any time, or;
 - a residential zone between the hours of:
 - 1) 11:00 p.m. to 7:00 a.m. of the next day which is a Weekday;
 - 2) 11:00 p.m. to 9:00 a.m. of the next day which is a Sunday or Holiday

AND SHALL INCLUDE, but not be limited to:

- i. The detonation of Fireworks or explosives;
 - ii. The discharge of firearms;
 - iii. The operation of combustion engine(s);
 - iv. The operation of any electronic device(s) incorporating one or more loudspeaker(s) or other electro-mechanical transducers, and intended for production, reproduction or amplification of sound;
 - v. Persistent barking, howling, calling or whining or other similar noise made by any domestic animal(s) or any other animal kept or used for any purpose other than Agriculture;
 - vi. Yelling, shouting;
 - vii. All selling or advertising by shouting or outcry or amplified sound;
 - viii. Domestic noises of every kind whatsoever, whether from a source wholly within a dwelling place or not;
8. a) Notwithstanding any provisions of this By-Law, and whether or not the noise resulting there from may be heard in adjoining area(s) which is zoned other than an Industrial Land-Use District, nothing in the By-Law SHALL prevent the continual operation or carrying on of an Industrial activity, or the performance, or carrying on thereof during some, or any of the hours between (11:00 p.m.) in the evening and (7:00 a.m.) of the next forenoon in any area(s) which are classified as Industrial Land-Use District or Railway Land-Use District as defined in the "Land-Use By-Law" of the Town of Fort Macleod where the activity is one which:
- i) is permitted use in the "Land-Use District" in which it is carried on or is a conditional use for which the required permission has been granted by the Municipal Planning Commission; or;
 - ii) is a Non-conforming use as defined under the "Land-Use By-Law" for which the use is being carried on;
 - iii) in the operation of an Industrial activity in the Land-Use District in which it would be curtailed or restricted but for this season, the person(s) operating or carrying on the activity SHALL make no more noise than is necessary in the normal operation or performing or carrying on of that activity.

- 9. Nothing within this By-Law SHALL apply to work that is required by Town Service crew(s), on any Street or Avenue, or by any Public Utility company(s).

**PART V
PENALTIES**

- 10. Any person(s) who contravene any provision(s) of this By-Law is guilty of an offence.
 - a) Except as otherwise provided for in this by-law, the person or occupant who is guilty of an offence under this by-law for which a penalty is not provided, is liable on summary conviction to a fine or in default of payment, distress.
 - b) The following schedule of fines SHALL form part of this By-Law, and any person or occupant SHALL be liable to pay the amount(s) specified.
 - i. For a First offence a penalty of: \$100.00 dollars shall apply.
 - ii. For a Second offence (within 6 mths) a penalty of \$300.00 dollars shall apply.
 - iii. For a Third offence(s) (within 6 mths of the second offence) a penalty of \$1,000.00 dollars shall apply.
- 11. This By-Law rescinds By-Law No. 1345 and amendments thereto and all preceding By-Laws.
- 12. This By-Law SHALL come into effect on the date of final reading and passing thereof.

READ A FIRST TIME THIS 11th DAY OF December, 2000 A.D.

MAYOR

MUNICIPAL MANAGER

READ A SECOND TIME THIS 11th DAY OF December, 2000 A.D.

MAYOR

MUNICIPAL MANAGER

READ A THIRD TIME AND FINALLY DECLARED PASSED BY COUNCIL THIS 11th DAY OF December, 2000 A.D.

MAYOR

MUNICIPAL MANAGER