

BY-LAW 429-96
of the
VILLAGE OF HUSSAR IN THE PROVINCE OF ALBERTA

BEING A BY-LAW OF THE VILLAGE OF HUSSAR IN THE PROVINCE OF ALBERTA TO CONTROL NOISE WITHIN THE CORPORATE LIMITS OF THE VILLAGE.

WHEREAS under the provisions of Section 7 of the Municipal Government Act, being Part 2, Division 1 of the Revised Statutes of Alberta, 1994 and amendments thereto, the Council may pass by-laws for the purpose of prohibiting, eliminating or abating noise and establishing permissible noise levels for all varying periods of the day, on all or a designed part or location of the Municipality:

AND WHEREAS under the provisions of Section 16(1) E of the Highway Traffic Act, being Chapter H-7 of the Revised Statutes of Alberta, 1980, and amendments thereto, the Council of a municipality may make by-laws defining what constitutes objectionable noise, devising a system or method of determining or measuring such noise and prohibiting the operation of motor vehicles which in any manner make objectionable noise:

AND WHEREAS the intent of this By-Law is that all noises shall be reduced as far as possible, compatible with the normal activities of urban life and that unnecessary noise be eliminated;

NOW THEREFORE the Municipal Council of the Village of Hussar in the Province of Alberta, in Council duly assembled enacts as follows:

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) Land-Use By-Law means By-Law 375-84 of the Village of Hussar as amended from time to time and includes any By-Law passed in substitution for or in addition thereto.
 - b) "Holiday" means a Sunday, a public holiday as defined in the Interpretation Act (Alberta) and a day or portion of a day proclaimed by the CEO (Mayor) or the the Council of the Village of Hussar as a civic holiday.
 - c) "Residential District" means any area or district classified as Residential by the Land-Use by-law and includes R-1 (Residential), RMH (Residential Mobile Home District).
 - d) "Commercial District" means any area or district classified as Commercial in the Land-Use By-Law.
 - e) "Industrial District" means any area or district classified as M (Industrial) in the Land Use By-Law.
 - f) "Signalling Device" means a horn, gong, bell, claxon or other device producing an audible sound for the purpose of drawing people's attention to an approaching vehicle, including a bicycle.
 - g) "Village" means the Corporation of the Village of Hussar or the area contained from time to time within the Corporate boundaries of the Village, in the Province of Alberta, as the context requires.
 - h) "Vehicle or Motor Vehicle" refers to such vehicles as defined in Section 1 of the Highway Traffic Act, Chapter H-7 Revised Statutes of Alberta 1980 and amendments thereto.

- i) "Peace Officer" means a member of the Royal Canadian Mounted Police and/or any duly authorized Police Officer or By-Law Enforcement Officer employed by the Village of Hussar.
- j) "Him" means either male or female as the context requires.

II. GENERAL ABATEMENT PROVISION:

- 1. No person shall make, continue, or cause to be made or continued, any loud unnecessary or unusual noise or any noise whatsoever which either annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons within the limits of the Village of Hussar.
- 2. 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 or unusual noise which disturbs the comfort or the repose of other persons in the vicinity of such property or generally within the limits of the Village.
- 3. What a loud noise, an unnecessary noise, an unusual noise or a noise which annoys, disturbs injures or endangers 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 By-Law.

III. VEHICLE NOISE ABATEMENT:

- 1. No person shall operate a motor vehicle or leave the motor running on a street within a residential area at any time of the day or night, so as to unduly disturb residents of any such street or any part thereof.

IV. OPERATION OF APPLIANCES:

- 1. No person shall operate a power operated lawn mower, snow removal device or motorized model aircraft in a residential area between the hours of ten o'clock in the evening and seven o'clock of the next morning on weekdays and between the hours of ten o'clock in the evening and eight o'clock of the next morning on Sundays.

V. CONSTRUCTION NOISES:

- 1. No person shall carry on construction of any kind that can be heard beyond the boundary of the construction site between the hours of ten o'clock in the evening and seven o'clock of the next morning on weekdays and between the hours of ten o'clock in the evening and eight o'clock of the next morning on Sundays.
- 2. Notwithstanding Section V.1, a Peace Officer may allow construction to be carried on subject to such restrictions and conditions as he may impose.
- 3. No person shall operate between the hours of ten o'clock in the evening and seven o'clock of the next morning on weekdays and between the hours of ten o'clock in the evening and eight o'clock of the next morning on Sundays any equipment, machinery or mechanical devices or any other tool or device of a noisy nature that may disturb residents.
- 4. Section V.3 does not apply to work on a Village street or a Public Utility carried on by:

- a) The Village of Hussar employees or a contractor hired by the Village of Hussar to carry out Public Works.
- b) Canadian Western Natural Gas, TransAlta Utilities, Alberta Government Telephones or contractors working for them.
- d) Farm machinery being used for the normal operations of a farming operation.

VI. SOUND AMPLIFYING EQUIPMENT:

1. No person shall operate any sound amplifying equipment from any residence, business premises, vehicle or in any park or other public place so as to unduly disturb residents of the Village.

VII. BARKING DOGS:

1. Any person who owns, keeps or harbors a dog that by reason of barking or howling disturbs persons in the vicinity is guilty of an offence under this By-Law.

VIII. COMMERCIAL AND INDUSTRIAL NOISE:

1. Notwithstanding any other provision of this By-Law where an open area is provided for parking of patrons in connection with the operation of a retail store or group of retail stores, the owner or person in charge of the parking area, making no more noise than is reasonably necessary in connection therewith, may use a machine for clearing snow or debris from that area during such hours as is necessary or expedient to keep that area clear of snow and debris.
2. No person shall advertise an event or merchandise by ringing bells, calling loud, playing any type of musical or noise making instrument or by any other audible means in any part of the Village other than an area classified as commercial.
3. Notwithstanding any other provision of the By-Law and whether or not the noise resulting therefrom may be heard in an adjoining area which is classified other than an industrial district, nothing in this 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 ten o'clock in the evening and seven o'clock the next forenoon in any area which is classed as an industrial district where the activity is one which;
 - a) is permitted use in the district in which it is carried on or is a conditional use for which the required permission has been given.
 - b) is a non-conforming use and as the same is defined in the Land Use By-Law for the district in which the use is being carried on.

IX. PROSECUTIONS:

1. Any person who contravenes, refuses, neglects or otherwise fails to comply with the provisions of this By-Law is guilty of an offense and liable on summary conviction to a fine of not less than:
 - a) for first offense to a fine of \$100.00
 - b) for the second offense to a fine of \$200.00
 - c) for a third or subsequent offense to a fine of \$500.00 and in each case in default of payment to a term of imprisonment for not more than three months.

X. PAYMENT:

1. Where a By-Law Enforcement Officer or a Police Officer believes that a person has contravened any section of this By-Law he may serve upon a person an offence ticket. The Village of Hussar shall accept voluntary payment of this ticket in lieu of prosecution for the offence.
2. Any person who is issued a summons offence ticket or warning notice shall immediately discontinue creating such a noise. If the noise continues or is allowed to continue a second summons or offense ticket may be issued.
3. Failure to voluntarily pay an offense ticket within the time specified may result in prosecution under Section IX.1 of this By-Law and Section X.1 of this By-Law shall no longer apply.
4. No part of this By-Law shall;
 - a) prevent a person from exercising his right to defend any charge of committing a breach of this By-Law.
 - b) prevent a By-Law Enforcement Officer or Police Officer from issuing a warning notice in lieu of any offence ticket.

XI. This By-Law shall take effect on the date of the final reading thereof.

READ A FIRST TIME IN COUNCIL THIS 8 OF OCTOBER, 1996.
READ A SECOND TIME IN COUNCIL THIS 14 OF November, 1996.
READ A THIRD TIME AND FINALLY PASSED THIS 14 OF November, 1996.

CEO

Myrtle Pestelchuk

ADMINISTRATOR

Valerie Allan