

BYLAW NO. 590/06

**BEING A BYLAW OF
THE MUNICIPAL DISTRICT OF MACKENZIE NO. 23
IN THE PROVINCE OF ALBERTA**

PREVENTING AND COMPELLING THE ABATEMENT OF NOISE

WHEREAS Section 7 of the Municipal Government Act, Chapter M-26.1, 2000 and amendments thereto, of the Province of Alberta, provides that a Municipal Council may enact a Bylaw respecting the safety, health and welfare of people and the protection of people and property; and nuisances;

AND WHEREAS it is deemed expedient by the Council of the Municipal District No. 23 to pass a Bylaw preventing and compelling the abatement of noise and nuisances in the Municipal District.

NOW THEREFORE the Council of the Municipal District of Mackenzie No. 23 in the Province of Alberta, duly assembled enacts as follows:

SECTION 1 NAME OF BYLAW

This Bylaw may be cited as the "The Noise Abatement Bylaw".

SECTION 2 INTERPRETATION

Where there is a conflict between this Bylaw and any other Bylaw pertaining to noise abatement in the Municipal District, the provisions of this Bylaw shall apply.

SECTION 3 DEFINITIONS

In this Bylaw:

- a) "Electronic Device" means any device or mechanism which is operated by the application of electric current, and without restricting the generality of the foregoing, includes any radio receiver, radio transmitter, record or tape player or device which reproduces recorded sound, television set, amplifier and loud speaker system, public address system, alarm, siren;
- b) "Engine Brake" means any device attached to the engine or engine exhaust of a vehicle with a primary purpose of retarding the vehicle's speed;

- c) "Hamlet" means the area contained within the boundaries of Fort Vermilion, La Crete, and Zama City in the Province of Alberta;
- d) "Industrial Equipment" means any device, machinery, apparatus or tool, whether manually, electronically or mechanically operated for the purpose of the construction or maintenance industry;
- e) "Lessee" means any person, including his agent or any member of his family, who rents, or occupies property owned by another person or persons;
- f) "Municipal District" means the area contained within the boundaries of the Municipal District of Mackenzie No. 23;
- g) "Noise" means any sound which is, or is considered to be, sharp or piercing; or shrill or explosive; or unnecessarily loud; or intended to warn persons of danger or of emergency;
- h) "Nuisance" means any act or deed, or omission, or thing, which is, or could reasonably be expected to be annoying, troublesome, destructive, harmful, inconvenient, or injurious to another person and/or his property;
- i) "Off-Highway Vehicle" means any motorized vehicle designated for cross country travel on land, water, snow, ice, marsh, swamp, or on other natural terrain;
- j) "Occupant" means any person occupying any property, whether he is the owner or lessee of such property or whether such person resides thereon or conducts a business thereon;
- k) "Owner" means a person having title to or legal possession of any property, or who possesses property under a purchase agreement;
- l) "Peace Officer" means a member of the Royal Canadian Mounted Police, a Bylaw Officer, or a Special Constable pursuant to the Police Act of Alberta;
- m) "Property" means anything owned by any person, whether in whole or in part, and also includes real property;

- n) "Residential Districts" means any land use districts that allow for residential development pursuant to the Land Use Bylaw;
- o) "Real Property" means any land and/or buildings whether occupied or not;
- p) "Special Permit" means any notice issued and signed by the Director of Emergency Services or his designate, and includes the terms and conditions stated therein;
- q) "Violation Ticket" means a ticket referred to in the Provincial Offences Procedures Act, Violation Ticket Regulation.

SECTION 4 REGULATIONS

- a) No person within the Municipal District shall cause, or allow to be caused, a nuisance or the creation of unreasonable noise by means of the operation of:
 - i) any electronic device, or
 - ii) an off-highway vehicle.
- b) No person shall, within the residential districts of the Municipal District, between the hours of eleven (11) o'clock in the afternoon (p.m.) of one day and seven (7) o'clock in the forenoon (a.m.) of the next day, operate any:
 - i) industrial equipment, or
 - ii) off-highway vehicle, or
 - iii) engine or motor powered device used for snow removal, gardening, landscaping or lawn maintenance.
- c) No person shall, within a Hamlet residential district, operate an engine brake.
- d) No occupant of any property within the Municipal District shall make, or cause to be made, or allow another person within or upon such property to make, or cause to be made, any unreasonable noise which may be a nuisance, and upon complaint by any person of such unreasonable noise, a Peace Officer may in addition to issuing any warning, or violation ticket, or laying any information with respect to an alleged breach of this Bylaw, order the occupant and any

- other person found therein to forthwith cease causing such noise and refrain from continuing said noise.
- e) Every Peace Officer is hereby authorized to enter any lands or buildings or premises other than a dwelling house to inspect for conditions that may constitute a nuisance, or contravene or fail to comply with the provisions of this Bylaw and such Peace Officer may order the owner or occupant thereof to remedy any condition which is deemed to be in contravention of this Bylaw.
 - f) In any proceedings under this section, the following persons shall be deemed to be the occupants of any property upon which it has been alleged that an offence has been committed;
 - i) person who,
 - (1) resides therein, or
 - (2) claims to reside therein, or
 - (3) is a lessee with respect to such property, or
 - (4) has title to such property, or
 - (5) possesses said property under a purchase agreement
 - ii) provided, however, that such person was present at the time of the alleged offence, or permitted other persons to use said property.
 - g) The provisions of this Bylaw do not apply to:
 - i) Employees or agents carrying out work authorized by the Municipal District or,
 - ii) Work carried out pursuant to a special permit or,
 - iii) Persons involved in generally accepted agricultural practices as defined in the Agricultural Operations Practices Act.
 - h) An affidavit, as set out in Schedule "A" of this Bylaw, purporting to be signed by the Landlord of the said property shall be admitted in evidence as prima facie proof of the facts stated therein without proof of the signature or official character of the person signing the affidavit and shall be admissible without prior notice of intent to enter the affidavit as evidence.

- i) Notwithstanding any other provision in this Bylaw, the Municipal District Director of Emergency Services, or anyone appointed to act in his behalf may, at their discretion, issue a permit to any person or organization to operate an electronic device within the District.
 - a) Such permit shall specify:
 - i) the name of the person or organization being granted the permit, and
 - ii) the type of electronic device being permitted, and
 - iii) the period of time for which the permit is valid, and
 - iv) any other conditions pertinent to the use of such device, having regard to the public order and peace.

SECTION 5 PENALTY

- a) Any person who commits a breach of any provision of Section 4 is guilty of an offence and liable on summary conviction to:
 - i) For a first offence to a specified penalty of one hundred (\$100.00) dollars, and in default of payment to imprisonment for a term not exceeding fourteen (14) days, or
 - ii) For a second or subsequent offence to a fine of not less than two hundred (\$200.00) dollars and in default of payment to a term of imprisonment not exceeding thirty (30) days.
- b) Everyone who commits a breach of any provision of this Bylaw for which no other provision for penalty has been made is guilty of an offence and is liable on summary conviction to:
 - i) For a first offence, to a fine of not more than five hundred (\$500.00) dollars or in default of payment of the fine and costs, to imprisonment for six (6) months;
 - ii) For a second or subsequent offence, to a fine of not less than three hundred (\$300.00) dollars and not more than

one thousand (\$1,000.00) dollars or in default of payment of the fine and costs, to imprisonment for six (6) months;

- iii) For the purpose of this section no notice of previous conviction or intention to proceed against an accused as a second offender is required.
- c) A Peace Officer may, in lieu of laying any information in respect to the alleged breach, issue a violation ticket.

This Bylaw shall come into force at the beginning of the day of the third and final reading thereof.

First reading given on the 23rd day of August, 2006.

(signature on file)
Bill Neufeld, Reeve

(signature on file)
Carol Gabriel, Executive Assistant

Second reading given on the 23rd day of August, 2006.

(signature on file)
Bill Neufeld, Reeve

(signature on file)
Carol Gabriel, Executive Assistant

Third reading given on the 12th day of September, 2006.

(signature on file)
Bill Neufeld, Reeve

(signature on file)
Carol Gabriel, Executive Assistant

**NOISE ABATEMENT BYLAW 590/06
SCHEDULE "A"**

CANADA
PROVINCE OF
ALBERTA

AFFIDAVIT

I _____
(Landlords Full Name)

OF THE _____ OF _____ IN THE PROVINCE
OF ALBERTA, LANDLORD OF _____
(Street Address of Building)

MAKE OATH AND SAY AS FOLLOWS:

THAT ON _____ DAY, THE _____ DAY OF _____

A.D. _____,

(Name of Lessee)

WAS THE LESSEE OF _____
(Full Address)

IN THE MUNICIPAL DISTRICT OF MACKENZIE NO. 23 IN THE PROVINCE OF ALBERTA

AFFIRMED AT THE _____ OF)
_____, IN THE PROVINCE)
ALBERTA, THIS _____) _____
DAY OF _____) (Signature of Landlord)
A.D. 20 _____ BEFORE ME)

(Justice or other person authorized to administer oaths or to take affidavits)