

**BYLAW #535-21
VILLAGE OF HUSSAR**

BEING A BYLAW OF VILLAGE OF HUSSAR, IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF PROHIBITING, ELIMINATING OR ABATING NOISE IN ALL OR DESIGNATED AREAS

WHEREAS the *Municipal Government Act*, R.S.A. 2000, c.M-26, as amended, provides that the Council of a Municipality may pass a Bylaw respecting the safety, health and welfare of people and the protection of people and property, respecting people, activities and things in, on or near a public place or place that is open to the public, and respecting nuisances;

AND WHEREAS the *Traffic Safety Act*, R.S.A. 2000, c. T-6 as amended, provides that the Council of a Municipality may make bylaws defining what constitutes an objectionable noise, establishing a method of determining or measuring noise, and prohibiting the use or operation of a vehicle where the noise produced in connection with that vehicle is objectionable noise;

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

1. SECTION 1 – SHORT TITLE

1.1 This Bylaw may be cited as the Village of Hussar “Noise Control Bylaw”.

2. SECTION 2 – DEFINITIONS

2.1 “Bylaw Enforcement Officer” means a Bylaw Officer appointed by the Village of Hussar pursuant to the *Municipal Government Act*, R.S.A. 2000, c.M-26, as amended to enforce the bylaws of the Village of Hussar and includes Peace Officers and the Members of the Royal Canadian Mounted Police (R.C.M.P.).

2.2 “Construction Equipment” includes a riveting machine, concrete mixer, gravel crusher, excavator, trenching machine, dragline, backhoe, air or steam compressor, jackhammer or pneumatic drill, bulldozer, front-end loader, motor scraper, motor grader or any other tool, device, or machine of a noisy nature.

2.3 “Construction Noise” means noise caused by Construction Equipment.

2.4 “Council” means the Council of the Village of Hussar

2.5 “Holiday” means any day declared as such by Municipal, Provincial or Federal authority.

2.6 “Land Use Bylaw” means the Village of Hussar’s Land Use Bylaw 493-14 as amended from time to time and any Bylaw passed in substitution for or in addition to bylaw 493-14.

2.7 “Motor Vehicle” means

- (a) a vehicle propelled by any power other than muscular power, or
- (b) a moped, but does not include a bicycle, a power bicycle, an aircraft, an implement of husbandry or a motor vehicle that runs only on rails;

- 2.8 "Noise" / "Objectionable Noise" means any sound which in the opinion of an Enforcement Officer having regard for all circumstances, including the time of day and the nature of the activity generating the sound, is likely to and reported as such that it annoys or disturbs a person, or which injures, endangers or detracts from the comfort, repose, health, peace and safety of a person within the boundary of the Village of Hussar.
- 2.9 "Person" includes any individual, partnership, corporation, trustee, executor or administrator.
- 2.10 "Signaling Device" means a horn, gong, bell, klaxon or other device producing an audible sound for the purpose of drawing a person's attention to an approaching vehicle, including a bicycle.
- 2.11 "Violation Tag" means a tag or similar document issued by the Enforcement Officer pursuant to the *Municipal Government Act*, R.S.A. 2000, c.M-26, as amended.
- 2.12 "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, and Regulations thereunder.
- 2.13 "Weekday" means any day other than a Saturday, Sunday or a Holiday.
- 2.14 "Weekend" means Saturday and Sunday.

3. SECTION 3 – GENERAL PROHIBITION

- 3.1 Except to the extent permitted by this Bylaw, no person shall cause or permit any other person to:
- (a) 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 Village of Hussar.
 - (b) Operate or permit any other person to operate within the Village of Hussar, a Motor Vehicle which causes a noise.
- 3.2 No person shall allow property under their ownership or control to be used in such a way that there is 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.
- 3.3 A Bylaw 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 either verbal or written.
- 3.4 Where an activity which is not specifically prohibited or restricted by any legislation of Canada or the Province of Alberta or by this Bylaw involves making a sound, which:
- (a) Is or may become; or
 - (b) Creates, 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 engaged in that activity shall do so in a manner creating as little noise as practicable under the circumstances.

4. SECTION 4 – MOTOR VEHICLE NOISE

4.1 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.

4.2 The failure of a person to comply within the Village of Hussar with the following provisions of the *Traffic Safety Act*, R.S.A. 2000, c. T-6 as amended and Regulations thereof constitutes a violation of this Bylaw in addition to and not in substitution for the offence under the *Traffic Safety Act*, R.S.A. 2000, c. T-6 as amended

- (a) The prohibition against the use of Signaling Devices on Motor Vehicles, motorcycles, or bicycles so as to make more noise than is reasonably necessary for the purpose of giving notice or warning to other persons on the highway, as set out in subsection (2) of Section 83 of the Use of Highway and Rules of the Road Regulation;
- (b) The restrictions on the type or use of mufflers and similar equipment on Motor Vehicles, as set out in Section 61(1) of the Vehicle Equipment Regulation;
- (c) The prohibition against equipping a vehicle other than those specified with a siren, as set out in Section 77 of the Vehicle Equipment Regulation.

4.3 A person who operates a Motor Vehicle in the Village of Hussar at any time in such a way as to cause a noise is guilty of an offence under this Bylaw in addition to and not in substitution of any offence of which the person may be guilty under Section 13(1)(g)(iii) of the *Traffic Safety Act*, R.S.A. 2000, c. T-6 as amended.

5. SECTION 5 – CONSTRUCTION NOISE

5.1 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 nine o'clock of the next morning on Weekends.

5.2 Notwithstanding Section 5.1 an Enforcement Officer may allow construction to be carried on subject to such restrictions and conditions as he may impose.

5.3 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 nine o'clock of the next morning on Weekends any construction equipment, machinery or mechanical devices or any other tool or device of a noisy nature that may disturb residents.

6. SECTION 6 – SOUND AMPLIFYING EQUIPMENT

6.1 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.

7. SECTION 7 – BARKING DOGS

7.1 Any person who owns, keeps, or harbors a dog that by reason of barking, howling or makes any other noise which thereby disturbs the quiet or repose of any person is guilty of an offence

8. SECTION 8 – COMMERCIAL AND INDUSTRIAL NOISE

8.1 Notwithstanding any other provision of this Bylaw 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.

8.2 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.

8.3 Notwithstanding any other provision of the Bylaw and whether or not the noise resulting therefrom may be heard in an adjoining district, nothing in this Bylaw 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 Bylaw for the district in which the use is being carried on.

9. SECTION 9 – NON-APPLICATION OF BYLAW

9.1 This Bylaw does not apply:

9.1.1 To work carried on by the Village of Hussar or its agents, contractors, servants or employees, acting within the scope of their agency, contract, or employment, as the case may be, provided that the noise does not occur in any district 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 nine o'clock of the next morning on Weekends.

9.1.2 To the performance of any industrial activity by any person on land where:

9.1.2.1 the industrial activity is:

- (a) a permitted use within Districts and under the Land Use Bylaw;
- (b) is an approved discretionary use within Districts and under the Land Use Bylaw; or
- (c) is a non-conforming use as defined in the *Municipal Government Act*;

the Noise is generated pursuant to work done in the normal manner to that end; and

9.1.2.2 the work does not otherwise contravene any Federal, Provincial or Municipal Laws or Regulations.

9.1.3 to persons using domestic equipment including power operated tools, lawnmowers, leaf blower, weed and hedge trimmer, garden tiller, snow removal device or motorized model aircraft, and built-in vacuum cleaners which are vented to the outside, and persons owning or controlling property upon which such equipment is used if:

9.1.3.1 the noise is of a temporary or intermittent nature;

9.1.3.2 the equipment is properly maintained and operated in a normal manner for that type of equipment; and

9.1.3.3 the noise does not occur 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 nine o'clock of the next morning on Weekends.

9.1.4 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.

10. SECTION 10 – AUTHORIZATION TO INSPECT

10.1 An Enforcement Officer may enter any land, building or premises to inspect for conditions that may constitute a contravention of this Bylaw in accordance with Section 542 of the *Municipal Government Act, R.S.A. 2000, Chapter M-26*

11. SECTION 11 – EXEMPTIONS

11.1 The Village of Hussar Council 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

12. SECTION 12 – PENALTIES

12.1 Any Person who contravenes any provision of this Bylaw, is guilty of an offence punishable on summary conviction and is liable:

- (a) For a first offence to a fine of \$250.00
- (b) For a second offence to a fine of \$500.00 within one year of the first offence
- (c) For a third or subsequent offence to a fine of \$750.00 within one year of the first offence.

12.2 Each occurrence of a contravention of this Bylaw, or in the case of continuous contraventions, each day a contravention occurs or continues, constitutes a separate offence and may be punished separately.

12.3 If a Violation Ticket is issued in respect of an offence, the Violation Ticket may:

- (a) Specify the fine amount as established by this Bylaw; and

- (b) Require a person to appear in Court without the alternative of making a voluntary payment.

13. SECTION 13 – VIOLATION TAGS

- 13.1 An Enforcement Officer is hereby authorized and empowered to issue a Violation Tag to any person who the Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this Bylaw.
- 13.2 A Violation Tag may be issued to such person:
 - (a) Either personally; or
 - (b) By mailing a copy of such Violation Tag to the person at his or her last known mailing address.
- 13.3 Any person who is issued a Violation Tag shall immediately discontinue creating such a noise
- 13.4 Where a contravention of this Bylaw is of a continuing nature, further Violation Tags may be issued by an Enforcement Officer in respect of each day or part of day on which it continues.
- 13.5 Where a Violation Tag is issued pursuant to this Bylaw, the person to whom the Violation Tag is issued may, in lieu of being prosecuted for the offence, pay to the Village of Hussar, the penalty specified in the Violation Tag.
- 13.6 Nothing in this Bylaw shall prevent an Enforcement Officer from immediately issuing a Violation Ticket.

14. SECTION 14 – VIOLATION TICKETS

- 14.1 If the penalty specified on a Violation Tag is not paid within the prescribed time period then an Enforcement Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to Part II of the *Provincial Offences Procedures Act, S.A. 1988, c. P-21.5*
- 14.2 An Enforcement Officer is hereby immediately authorized and empowered to issue a Violation Ticket to any person who the Enforcement Officer believes has contravened any provision of this Bylaw pursuant to Part II of the *Provincial Offences Procedures Act, S.A. 1988, c. P-21.5*
- 14.3 Where a contravention of this Bylaw is of a continuing nature, further Violation Tickets may be issued by an Enforcement Officer in respect of each day or part of day on which it continues.

15. SECTION 15 – SEVERABILITY PROVISION

- 15.1 If any section of this Bylaw is found to be illegal or beyond the power of Council to enact, such section shall be deemed to be severable from all other sections of this Bylaw.

16. SECTION 16 - EFFECTIVE DATE

- 16.1 This Bylaw shall rescind Bylaw 429-96.

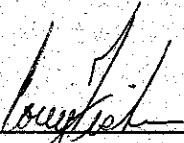
16.2 This Bylaw shall come into effect upon third and final reading

READ a first time this 12 day of August, 2021.

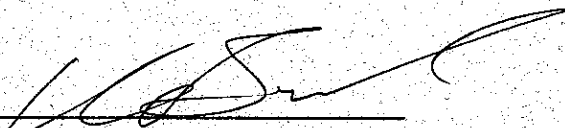
READ second time this 16 day of September, 2021.

READ a third time this 16 day of September, 2021.

Signed this 16 day of September, 2021.



Mayor



Chief Administrative Officer

