

Bylaw 408/85
TOWN OF ELK POINT #043

A BYLAW OF THE TOWN OF ELK POINT, IN THE PROVINCE OF ALBERTA, TO PROHIBIT CERTAIN ACTIVITIES CREATING NOISE AND TO ABATE THE INCIDENCE OF NOISE AND TO RESTRICT WHEN CERTAIN SOUNDS MAY BE MADE.

WHEREAS it is deemed expedient pursuant to the provisions of Section 160 (1) (g) of the Municipal Government Act, being Chapter M-26 of the Revised Statutes of Alberta, 1980, with amendments thereto, a Council may pass bylaws for the purpose of prohibiting, eliminating or abating noise and establishing permissible noise levels for all or varying periods of the day, in all or in a designated part or location of the municipality.

NOW THEREFORE, the Council of the Town of Elk Point duly assembled hereby enacts as follows:

1. This Bylaw may be cited as “The Noise Bylaw”.
2. In this Bylaw, including this section,
 - a) “Town” means the corporation of the Town of Elk Point, or the area contained within its corporate boundaries, as the context require;
 - b) “holiday” means any statutory holiday as defined in the Interpretation Act;
 - c) “hospital District” means an area which
 - i is designated as such by signs or other devices, or
 - ii any portion of the Town within five hundred feet in any direction from the boundaries of a site on which is situated a hospital as defined in The Alberta Hospitals Act;
 - d) “residential building” means a building which is constructed as a dwelling for human beings and includes an hotel;
 - e) “residential building” means a district defined as such in the Land Use Bylaw;
 - f) “weekday” means any day other than a Sunday or a holiday;
 - g) “Land Use Bylaw” means Bylaw No. 312, as the same is amended from time to time and includes any Bylaw passed in substitution for or in addition to Bylaw 312.

GENERAL PROHIBITION

3. a) Except to the extent it is allowed by this Bylaw no person shall make, continue, cause or allow 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 this Town.

- b) What is 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 Bylaw.
- c) 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 or such sound as practicable under the circumstances.
- d) Where an area is designated by signs or other means as being a hospital district no person shall
 - i) carry on any noise-making activity in the area unless it cannot be carried on in some other area, or
 - ii) make or continue any noise or loud sound within the area.

INDUSTRIAL NOISE

- 4. a) Notwithstanding any other provision of this Bylaw and whether or not the noise resulting there from may be heard in an adjoining area which is designated other than as an industrial district, nothing in this bylaw shall prevent the continual operation or carrying on of any 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 in the next forenoon in any area which is classed as an industrial district in the Land Use Bylaw where the activity is one which
 - i) is permitted use in the zone in which it is carried on or is a conditional use for which the required permission has been given, or
 - iii) is a non-conforming use and as the same is defined in Bylaw No. 312 for the district in which the use is being carried on.
- b) In the operation or carrying on of any industrial activity in a zone in which it would be curtailed or restricted but for subsection (a) the person operating or carrying on that activity shall make no more noise than is necessary in the normal method of performing or carrying on that activity.

CONSTRUCTION NOISES

5. Unless permission from the Development Officer of the Town for such operation is first obtained:

No person shall carry on the construction of any type of structure which involves hammering, sawing or the use of any mechanical 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 on in any district other than one designated in the Land Use Bylaw as an agricultural district, future residential district or an industrial district after the hour of ten o'clock in the evening and before the hour of seven o'clock in the morning of any day.

6. Unless permission from the Development Officer of the Town is first obtained no person shall operate or allow to be operated

- a) a riveting machine,
- b) a concrete mixer,
- c) a gravel crusher,
- d) a steam shovel,
- e) a trenching machine,
- f) a drag line
- g) an air or steam compressor, jack-hammer or pneumatic drill,
- h) a tractor or bull-dozer, or
- i) any other tool, device or machine of a noisy nature

so as to create a noise, confusion or disturbance which may be heard in a residential building between the hours of ten o'clock in the evening and seven o'clock in the morning of any day other than Sunday, or at any time during a Sunday.

7. Notwithstanding anything contained in this Bylaw, this Bylaw does not apply to work carried on by the Town, or by a contractor carrying out the instructions of the Town.

PENALTIES

8. A person who contravenes any provision of this bylaw either by doing something which he is prohibited from doing or failing to do something which he is required to do is guilty of an offence and is liable on summary conviction to a fine not in excess of five hundred dollars or in default of payment of the fine and costs to imprisonment.

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READ A FIRST TIME THIS 12 DAY OF AUGUST, A.D. 1985.

READ A SECOND TIME THIS 9 DAY OF STEMBER, A.D. 1985

READ A THIRD TIME AND FINALLY PASSED THIS 9 DAY OF SEPTEMBER, A.D. 1985.

MAYOR ED BUCK

MUNICIPAL AMINISTRATOR PAT VINCENT