

BY-LAW NUMBER 2013/05

BY-LAW NO. **2013/05** is a by-law of the County of Wetaskiwin No. 10 in the Province of Alberta, preventing and compelling the abatement of noise.

WHEREAS: Section 7 of the Municipal Government Act, Chapter M-26,2000, and amendments thereto, of the Province of Alberta, provides that a Municipal Council may enact a By-law 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 County of Wetaskiwin No. 10 to pass a By-law preventing and compelling the abatement of noise and nuisances within the County of Wetaskiwin No. 10.

NOW THEREFORE: The Council of the County of Wetaskiwin No. 10 in the Province of Alberta, duly assembled enacts as follows:

- 1) This By-law may be cited as "The Noise Abatement By-law."
- 2) In this By-law:
 - a) "CAO" means the Chief Administrative Officer of the County or his delegate.
 - b) "County" means the County of Wetaskiwin No. 10.
 - c) "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.
 - d) "Firearm" means any barrelled weapon from which any shot, bullet or other missile can be discharged and that is capable of causing serious bodily injury or death to a person and includes any frame or receiver of such barrelled weapon and anything that can be adapted for use as a firearm.
 - 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) "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.
 - g) "Nuisance" means any act or deed, or omission, or thing, which is, or could reasonably be expected to be annoying, or troublesome, or destructive, or harmful or inconvenient or injurious to another person and/or his property.
 - h) "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.

- i) "Owner" means a person having title to, or legal possession of any property, or who possesses property under a purchase agreement.
- j) "Peace Officer" means a member of the Royal Canadian Mounted Police, a Community Peace Officer appointed under the Peace Officer Act or a By-law Enforcement Officer,
- k) "Property" means anything owned by any person, whether in whole or in part and also includes real property.
- l) "Real Property" means any land and/or buildings whether occupied or not.
- m) "Special Permit" means any notice issued and signed by the County Administrator or his designate, and includes the terms and conditions stated therein.
- n) "Violation Ticket" means a ticket referred to in the Provincial Offences Procedures Act.

3) REGULATIONS

- a) No person shall, within the County:
 - i) operate any electronic device in such a manner as to be a nuisance or,
 - ii) between the hours of 11:00 o'clock in the afternoon of one day and 7:00 o'clock in the forenoon of the next day, operate any engine or motor powered machine used for snow removal, gardening, landscaping or on lawns or,
 - iii) 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 By-law, order the occupant and any other person found therein to forthwith cease causing such noise and refrain from continuing said noise.
- b) The provisions of this By-law do not apply to:
 - i) Employees or agents of the County carrying out work authorized by the County or,
 - ii) Work carried out pursuant to a special permit
 - iii) Persons engaged in a commercial snow removal operation.
 - iv) Accepted agricultural practices as defined in the Agricultural Operations Practices Act.

- c) 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 By-law and such Peace Officer may order the owner or occupant thereof to remedy any condition which is deemed to be in contravention of this By-law.
 - d) 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.
 - e) An affidavit, as set out in Schedule "A" of this By-law, 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.
- 4) Notwithstanding any other provision in this By-law, the CAO may, at their discretion, issue a permit to any person or organization to operate an electronic device within the County.
- 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.
- 5) PENALTY
- a) Every person who violates Sec 3(a)(i), 3(a)(ii) or 3(a)(iii) 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 violates any provision of this By-law 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 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.
- 6) A Peace Officer may, in lieu of laying any information in respect to the alleged breach, issue a violation ticket.
- 7) This By-law shall repeal By-Law No.96/54 and By-law No. 2002/16 of the County of Wetaskiwin No. 10.
- 8) All previous noise abatement By-laws and amendments thereto are hereby repealed.
- 9) This By-law shall come into force and effect upon the date of the final passing thereof.

READ: A First time this 22nd day of January, A.D., 2013

READ: A Second time this 22nd day of January, A.D., 2013

READ: A Third time and finally passed this 22nd day of January, A.D., 2013

Original Signed

REEVE

Original Signed

CHIEF ADMINISTRATIVE OFFICER

BY-LAW 2013/05

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 COUNTY OF WETASKIWIN NO. 10 IN THE PROVINCE OF
ALBERTA

SWORN AT THE _____ OF _____)
_____, IN THE PROVINCE _____)
ALBERTA, THIS _____)
DAY OF _____)
A.D. 19 _____ BEFORE ME _____)

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