

VILLAGE OF PEMBERTON

Noise Regulation Bylaw No. 699, 2012

A Bylaw to Regulate Noise within the Village of Pemberton.

WHEREAS pursuant to the *Community Charter* a Council may, by bylaw regulate or prohibit noise that is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public.

NOW THEREFORE, the Council of the Village of Pemberton, in open meeting assembled, **ENACTS AS FOLLOWS**:

1. **CITATION**

This Bylaw may be cited as “Village of Pemberton Noise Regulation Bylaw No. 699, 2012.”

2. **DEFINITIONS**

In this bylaw:

Authorized Person means a *person* appointed from time to time by Municipal Council to enforce and administer this Bylaw.

Construction Noise means any *Noise* created by or resulting from the construction, erection, reconstruction, alteration, repair or demolition of any building or structure or the excavation or filling of land in any manner.

Noise means any sound which is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public by being *unreasonably loud or excessive*. Sources of *noise* can include but are not limited to:

- (a) sound amplifiers such as stereos or public address systems;
- (b) musical instruments;
- (c) cries of harboured animals;
- (d) intermittent or reiterated cries;
- (e) landing of a helicopter in a residential zone or on a property abutting more than two properties where the primary use is a dwelling;
- (f) motorized equipment such as lawnmowers, generators, snow blowers, motor boats, jet skis, dirt bikes, snowmobiles or similar devices; and

(g) operation of any kind of equipment, machinery or engine.

Unreasonably loud or excessive noise means any *noise* deemed as such by an *Authorized Person* based on the following factors:

(a) the proximity of the sound to sleeping facilities;

(b) the land use and zoning of the area from which the *noise* emanates and the land use and zoning where it is received;

(c) the time of day the *noise* occurs;

(d) the duration of the *noise*;

(e) the volume of the *noise*;

(f) the nature of the *noise*;

(g) whether the sound is recurrent, intermittent or constant; and

(h) the nature of the event or activity from which the *noise* emanates.

Person means any individual, company, corporation, owner, partnership, firm, association, society or party.

Special Event means an event of temporary nature which may include commercial activity for profit, or, be organized by a non-profit society or individual, located on privately owned lands within the Village of Pemberton or on land controlled by the Village of Pemberton.

3. **GENERAL**

3.1 No *person* shall cause or make *Noise* during *Quiet Hours*.

3.2 No *person* being the owner or occupier of any premises or any real property shall allow or permit real property to be used to cause or make *Noise* during *Quiet Hours*.

3.3 No *person* or owner or occupier of any premises or any real property shall cause, make or allow any *Noise* prohibited under Section 4 of this Bylaw at any time.

4. **PROHIBITED NOISES**

4.1 The following *Noises* are prohibited:

(a) motor vehicles without a functional muffler;

(b) excessive vehicle *noise* such as excessive use of horn, squealing of tires, unattended car alarms, air horns, engine brakes or exhaust noise; and

(c) *unreasonably loud or excessive noise*.

5. **SPECIFIC REGULATIONS**

5.1 Without limiting the generality of Section 3 of this Bylaw, the following specific restrictions apply:

(a) *Quiet Hours*

No person shall cause or permit *noise* of any kind, which by its nature is reasonably interrupting or would tend to interrupt the sleep of a person in the neighbourhood or vicinity, on a Monday to Saturday inclusive before 7:00 a.m. or after 11:00 p.m., or on a Sunday or statutory holiday before 9:00 a.m. or after 11:00 p.m.

(b) *Construction Noise*

(i) No person shall, on a Monday to Saturday inclusive before 7:00 a.m. or after 8:00 p.m., or on a Sunday before 10:00 a.m. or after 4:00 p.m. engage in or permit construction in such a manner as to create a *noise*.

(ii) Where construction work is being carried out in any multifamily or commercial zone, a 1.5 metre x 1 meter (3' x 5') sign shall be posted at the entrance to the site, in plain view, showing the permitted construction hours. The minimum letter height shall be 75mm (3").

(c) *Holiday Construction Noise - Business Noise*

No person shall, as a business, inclusive before 10:00 a.m. or after 4:00 p.m. engage in or permit construction in such a manner as to create a *noise* on a statutory holiday.

6. **EXEMPTIONS**

6.1 The following are exempt from the contents of this Bylaw:

(a) police, fire or other emergency vehicles for emergency purposes;

(b) bells or chimes for the announcing of public worship services;

(c) security or fire alarms;

(d) the reasonable operation of a street sweeper, snow removal vehicle, garbage truck or other road and parks maintenance machines and

equipment by, or on behalf of, public facilities, or on behalf of commercial, industrial or institutional zoned properties;

(e) emergency repairs, provided that the repairs are urgently necessary for the preservation and protection of life, health, property or highways, but the onus shall be on the *person* performing the work to show cause that the work was of an urgent emergency nature;

(f) horn or signaling device upon any vehicle, boat or train where such *noise* is properly and necessarily used as a danger or warning signal;

(g) any public event for recreational or entertainment purposes for which a *special events license or Park Use Permit* has been issued, provided that written approval has been obtained from an Authorized Person for an exemption;

(h) any business or industry or agriculture operation established in accordance with "The Village of Pemberton Zoning Bylaw No. 466, 2001" as amended or re-enacted from time to time, in any area designated as approved for that type of operation provided that all precautions are taken according to the latest and most up to date scientific methods for abating, controlling or limiting noise, arising from the industry conducted and common to such trade or industry so that the same may be as free from neighbourhood offence as possible;

(i) any work carried out during restricted hours with permission of an *Authorized Person*, in writing, specifying the time during such restricted hours when such work may be performed.

7. SPECIAL EXEMPTIONS

7.1 A person may submit an application for exemption from the provisions of this Bylaw to an *Authorized Person* regarding construction issues if it is impossible or impractical to comply. Where an *Authorized Person* considers that it is impossible or impractical to comply with Section 3, an *Authorized Person* may

(a) exempt construction work from the provisions of section 5; and

(b) determine the terms of an exemption under this subsection for a specific period of time.

7.2 The applicant must demonstrate that the surrounding property owners have been notified of the applicant's intent to vary the hours. Responsibility for obtaining written approval lies with the person carrying on the work. An application for exemption must be in writing and shall include the following:

(a) the name, address and telephone number of the applicant;

(b) the civic address of the location of the works or events;

- (c) the building permit number;
- (d) the reasons for the requested exemption;
- (e) a description of the source of noise in respect of which the exemption is sought;
- (f) the exact period of time for which the exemption is requested;
- (g) a statement of the measures planned or presently being taken to minimize the noise or sound created; and
- (h) notification of neighbouring property owners / tenants within a one (1) block radius.

7.3 An application for exemption must be submitted to the Village of Pemberton within the at least ten (10) business days before construction work.

8. PENALTY

8.1 Every *person* who contravenes any provision of this bylaw commits an offence punishable on summary conviction (as prescribed in the *Offence Act*) and shall be liable to a fine of not more than \$ 2,000.00 (Two Thousand Dollars) or fines as prescribed within the “Village of Pemberton Municipal Ticket Information Utilization Bylaw No. 542, 2004” as amended or re-enacted from time to time.

9. INSPECTION

8.1 An *Authorized Person* is authorized to enter, at any time upon any real property, to carry out his / her investigation where he / she has reasonable grounds to believe that an infraction of this Bylaw has occurred.

8.2 Refusal by any *person* to permit an *Authorized Person* to enter upon any real property where such *Authorized Person* is lawfully engaged in his duties under this Bylaw shall constitute an infraction of this Bylaw.

10. REPEAL

“Village of Pemberton Noise Control Bylaw No. 526, 2004” and its amendments are hereby repealed.

READ A FIRST TIME this 15th day of May, 2012.

READ A SECOND TIME this 15th day of May, 2012.

READ A THIRD TIME this 15th day of May, 2012.

ADOPTED this 5th day of June, 2012.

Mayor

Corporate Officer