

**VILLAGE OF HOLDEN
BY-LAW NO. 3-2001**

BEING A BY-LAW OF THE VILLAGE OF HOLDEN IN THE PROVINCE OF ALBERTA FOR THE PURPOSE OF PROHIBITING, ELIMINATING OR ABATING NOISE.

WHEREAS, the Municipal Government Act, S.A., 1994 ch. M26.1 as amended, provides that the Council of a Municipality may pass a By-Law for the purpose of safety, health and welfare of people and the protection of people and property;

AND WHEREAS, the Highway Traffic Act, R.S.A., ch H-7, as amended, provides that the Council of a Municipality may make By-Laws defining what constitutes objectionable noise, devising a system or method of determining or measuring that noise, and prohibiting the operation of motor vehicles which in any manner make objectionable noise;

NOW THEREFORE, the Council of the Village of Holden in the Province of Alberta, duly assembled ENACTS AS FOLLOWS:

SECTION 1 - TITLE

1. This By-Law may be cited as the Village of Holden "Noise Control By-law".

SECTION 2 - DEFINITIONS

- 2.1 "By-Law Enforcement Officer" shall mean a By-Law Enforcement Officer appointed by the Village pursuant to the Municipal Government Act, S.A. 1994, ch M-26.1, as amended, to enforce the Village By-Laws, and includes a member of the Royal Canadian Mounted Police, and when authorized, a Special Constable.
- 2.2 "Chief Administrative Officer" shall mean as defined in the Municipal Government Act, S.A. 1994, ch M26-1, as amended.
- 2.3 "Construction Equipment" includes a riveting machine, concrete mixer, gravel crusher, steam shovel, dragline, backhoe, air or steam compressor, jack-hammer, tractor other than a tractor used in a Farming Operation, bulldozer, front end loader, motor scraper, motor grader or any other tool, device or machine of noisy nature.
- 2.4 "Construction Noise" means noise caused by construction equipment.
- 2.5 "Council" means the Council of the Village of Holden.
- 2.6 "Farm Implement" includes any implement, equipment, engine, tractor, machine, combine, tractor or attachment used or intended for use in Farming Operations.
- 2.7 "Farm Land" means land used for Farming Operations but does not include land less than one acre in area.
- 2.8 "Farming Operation" means:
 - a) the planting, growing and sale of trees, shrubs or sod;
 - b) the raising, or production, or protection of crops, livestock, fish, pheasants or poultry; or
 - c) fur production or beekeeping.
- 2.9 "Holiday" means any day declared as such by Municipal, Provincial or Federal authority and includes Sundays.
- 2.10 "Motor Vehicle" means Motor Vehicle as defined in the Highway Traffic Act, R.S.A., 1980 ch H-7 as amended.

SECTION 2 - DEFINITIONS

- 2.11 "Noise" means any sound which either annoys or disturbs persons, or which injures, endangers or detracts from the comfort, repose, health, peace or safety of persons within the boundaries of the Village.
- 2.12 "Person" includes an individual, partnership, corporation, trustee, executor or administrator.
- 2.13 Village means the Village of Holden in the Province of Alberta.

SECTION 3 - VIOLATIONS

- 3.1 Except to the extent permitted by this By-Law, no person shall cause or permit any other person to:
- a) cause a noise within the Village;
 - b) operate or permit any other person to operate within the Village, a motor vehicle that 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 noise originating from the property.
- 3.3 A By-Law 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 by a Federal, Provincial or Municipal law or regulations, including this By-Law and which involves creating or making a sound which:
- a) is or may become; or
 - b) creates or produces or may create or produce
- a noise, a person engaging in such an activity shall do so in such a manner as to create as little sound as is predicable under the circumstances.

SECTION 5 - PERMITS AND NON-APPLICATION OF BY-LAW

- 4.1 The Chief Administrative Officer may, upon written request, issue a permit to a person for the purpose of suspending the provisions of this By-Law and the permit shall specify the dates and hours during which noise may occur.
- 4.2 Any such permit shall be produced to a By-Law Enforcement Officer upon demand.
- 4.3 Persons owning or controlling construction equipment and persons owning or controlling land upon which construction equipment is being operated shall be exempt from the provisions of this By-Law if:
- a) The noise is generated pursuant to work done in the normal manner of that industry;
 - b) The noise is generated between the following hours:
7:00 A.M. - 10:00 P.M. Monday - Saturday
10:00 A.M. - 10:00 P.M. Sundays and Statutory Holidays
 - c) All necessary federal, provincial and municipal permits have been obtained and the work is not contrary to any federal, provincial or municipal laws or regulations.

SECTION 4 - PERMITS AND NON-APPLICATION OF BY-LAW

4.4 This By-Law does not apply

- a) to the performance of work by any person on farm land for the purpose of carrying on farming operations including the operation of farm equipment;
- b) to work carried on by the Village or its agents, contractors, servants or employees, acting within the scope of their agency, contract or employment, as the case may be; or
- c) to the performance of work by any person on land zoned as Industrial District pursuant to the Village's Land Use By-Law No. 4-1998 as amended, if;
 - i) the noise generated pursuant to work done in the normal manner to that end; and
 - ii) the work is authorized pursuant to the Village's Land Use By-law 4-1998, as amended, and does not otherwise contravene any federal, provincial or municipal laws or regulations.
- d) to persons using domestic equipment, including lawnmowers, snow blowers, garden tillers and built in vacuum cleaners that are vented to the outside, and persons owning or controlling property upon which such equipment is used if:
 - i) the noise is of a temporary or intermittent nature;
 - ii) the equipment is properly maintained and operated in a normal manner for that type of equipment; and
 - iii) the noise occurs between the hours of 7:00 A.M. and 10:00 P.M.
- e) 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.

SECTION 5 - AUTHORIZATION TO INSPECT

5.1 A By-Law Enforcement Officer may enter any land, building or premises to inspect for conditions that may constitute a contravention to this By-Law.

SECTION 6 - PENALTIES

6.1 Any person who contravenes any provision of this By-Law is guilty of an offence and is liable to a penalty in the amount of:

- a) a minimum of One Hundred Dollars (\$100.00) for a first offence; and
- b) a minimum of Five Hundred Dollars (\$500.00) for a second or subsequent offence.

6.2 Under no circumstances shall any person contravening any provision of this By-Law be subject to the penalty of imprisonment.

SECTION 7 - VIOLATION TAGS

- 7.1 A By-Law Enforcement Officer is hereby authorized and empowered to issue a violation tag to any person who the By-Law Enforcement Officer has reasonable and probable grounds to believe has contravened any provision of this By-Law.
- 7.2 A violation tag may be issued to such person:
- a) either personally, or
 - b) by mailing a copy to such person at his last known post office address.
- 7.3 The violation tag shall be in a form approved by the Chief Administrative Officer and shall state:
- a) the name of the person;
 - b) the offence;
 - c) the appropriate penalty for the offence as set out in this By-Law;
 - d) that the penalty shall be paid within thirty (30) days of the issuance of the violation tag;
 - e) any other information as may be required.
- 7.4 Where a contravention of this By-Law is of a continuing nature, the By-Law Enforcement Officer may issue further violation tags, provided that no more than one violation tag shall be used for each day that the contravention continues.
- 7.5 Where a violation tag is issued pursuant to this By-Law, the person to whom the violation tag is issued may, in lieu of being prosecuted for the offence, pay to the Village the penalty specified on the violation tag.
- 7.6 Nothing in this By-Law shall prevent a By-Law Enforcement Officer from immediately issuing a violation ticket for the mandatory Court appearance of any person who contravened any provision of this By-Law.

SECTION 8 - VIOLATION TICKET

- 8.1 If the penalty specified on a Violation Tag is not paid within the prescribed time period, then a By-Law Enforcement Officer is hereby authorized and empowered to issue a violation ticket pursuant to Part II of the Provincial Offences Procedure Act, S.A. 1988, ch P-21.5.
- 8.2 Notwithstanding Section 7.1 of this By-Law, a By-Law Enforcement Officer is hereby authorized and empowered to immediately issue a violation ticket pursuant to Part II of the Provincial Offences Procedure Act, S.A. 1988, ch P-21.5, as amended, to any person who the By-Law Enforcement Officer has reasonable grounds to believe has contravened any provision of this By-Law.

SECTION 9 - SEVERABILITY PROVISION

- 9.1 Should any provision of this By-Law be invalid, then such provision shall be severed and the remaining By-Law shall be maintained.

SECTION 10 - EFFECTIVE DATE

- 10.1 This By-Law shall be effective upon third and final reading and replaces Section 6 of By-Law No. 5-1990.

READ A FIRST TIME THIS 16TH. DAY OF JULY , 2001.

READ A SECOND TIME THIS 16TH. DAY OF JULY, 2001.

READ A THIRD TIME AND DULY PASSED IN OPEN COUNCIL THIS 16TH. DAY OF JULY, 2001.

MAYOR _____

CHIEF ADMINISTRATIVE OFFICER _____