

Town of Bashaw

BY-LAW # 741:2012

By-Law #741:2012, being a By-Law of the Town of Bashaw to prohibit certain public disturbances in the Town of Bashaw, in the Province of Alberta.

WHEREAS pursuant to the Municipal Government Act, RSA 2000, the Council of the Municipality may pass a by-law respecting the safety, health, and welfare of people and the protection of people and property and respecting the people, activities, and things in, on, or near a public place.

NOW THEREFORE THE MUNICIPAL COUNCIL OF THE Town of Bashaw, IN THE PROVINCE OF ALBERTA, DULY ASSEMBLED, ENACTS AS FOLLOWS:

1. SHORT TITLE

This By-Law may be cited as the "Public Disturbances By-Law".

2. DEFINITIONS

In this by-law:

- a) "Bullying" means any objectionable or inappropriate comment, conduct or display by a person:
 - i. directed at an individual, not of the same household;
 - ii. which causes or is likely to cause physical or emotional distress.
- b) "Construction Equipment" includes, but is not limited to trenching machines, concrete mixers, backhoes and similar equipment.
- c) "Development Officer" means a Development Officer appointed by the Municipality or his or her designate.
- d) "Disturbance" means the interruption of the peace, quiet and good order of a neighbourhood or community, including but not limited to unnecessary and distracting noises.
- e) "Firearm" means a barreled weapon from which any shot, bullet or other projectile can be discharged and includes, without limitation, a rifle, shotgun, revolver, pistol and air gun.
- f) "Graffiti" means the defacement or disfigurement of any property or object, through the performance of any of the following acts:
 - i. The application of any substance, including paint, ink, stain or whitewash to any surface; or
 - ii. The affixing of any substance, including paper, fabric or plastic, by any form of adhesion that does not remove cleanly when pulled away from the applied surface; or
 - iii. The marking, scratching, etching or other alteration or disfigurement of any surface.
- g) "Hazing" means any intentional or reckless act meant to induce physical pain, humiliation or embarrassment that causes physical or mental discomfort and is directed against a minor for the purpose of being initiated, introduced into, affiliated with or maintaining membership in any club, school, athletic team or other similar group or organization in which minors participate.
- h) "Loiter" means to stand idly around or move slowly about or to linger or spend time idly.
- i) "Manager" means the Chief Administrative Officer of the Municipality.
- j) "Minor" means an individual under 18 years of age.
- k) "Molesting" means to interfere with, annoy or disturb maliciously.

- l) "Peace Officer" means a member of the Royal Canadian Mounted Police, a Special Constable appointment pursuant to the provisions of the Police Act (Alberta), or a By-Law Enforcement Officer of the Municipality.
- m) "Person" means an individual or any business or other entity including a Firm, Partnership, Association, Corporation, Company, or Society but does not include the Municipality.
- n) "Premises" means the external surfaces of all buildings and the whole or part of any parcel of real property, including the land immediately adjacent to any building or buildings.
- o) "Power Tool" includes any tool powered by an engine, motor, or compressed air.
- p) "Public Place" means any place including privately and publicly owned or leased property, to which the public reasonably has or is permitted to have access, whether on payment or otherwise, within the municipal limits of the Municipality.
- q) "Public Property" means any schoolyard, highway, parkland, public bridge, road, lane, footway, alley or passage, whether a thoroughfare or not, and includes any open space to which the public have or are permitted to have access.
- r) "Quiet Hours" shall mean between the hours of 11:00 p.m. and 7:00 a.m. on any day.
- s) "Residential District" means any district designated for residential use in the Municipality's Land Use Bylaw as amended from time to time.
- t) "Municipality" means the municipal corporation of the Town of Bashaw or where the context permits, means the area within the municipal limits of the Town of Bashaw.

3. GENERAL PROHIBITION

- 3.1 Except to the extent permitted by this by-law, no person shall make, continue, cause or allow to be made or continued any unreasonably loud, raucous or unusual noise which annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of any other person of ordinary sensitivity within the Municipality.
- 3.2 Except to the extent permitted, by this bylaw, no person shall permit, suffer or allow property, real or personal which he owns, occupies or controls, to be used in a manner such that there emanates there from any unreasonably loud, raucous or unusual noise which annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of any other person of ordinary sensitivity within the Municipality.
- 3.3 Factors for determining whether a sound is unreasonably loud, raucous or unusual include, but are not limited to, the following:
 - (a) proximity of the sound to sleeping facilities, whether residential or commercial;
 - (b) the time of day or night the sound occurs;
 - (c) the duration and volume of the sound; and
 - (d) whether the sound is recurrent, intermittent or constant.
- 3.4 No person shall cause a disturbance in or near public property:
 - (a) by fighting, screaming, shouting, swearing, or using insulting language; or
 - (b) by molesting any other person.
- 3.5 No person unless lawfully authorized shall discharge any firearm within the Municipality.
- 3.6 No person shall cast, project, or throw any stones, balls of snow or ice, or use any projectile in any manner, which is dangerous to the public.

- 3.7 No person shall urinate or defecate on public property.
- 3.8 No person shall place graffiti or cause it to be placed on any property.
- 3.9 Bullying:
- (a) No person shall commit the act of bullying against another person in any public place, on public property or in any other place.
 - (b) No person shall commit the act of bullying against another person through written or electronic communication.
 - (c) No person shall commit the act of hazing against a minor in any public place, on public property or in any other place.

4. LOITERING

- 4.1 No person shall by himself or with another person loiter in a public place in such a manner as to obstruct, hinder or impede:
- (a) the free and uninterrupted passage of vehicles, traffic or pedestrians through, from or to such public place;
 - (b) access to the entryway of any premises normally used by the public for gaining entrance to the premises, unless permission is granted by the person in authority of the property.
- 4.2 No person shall loiter on any property where the person in authority of the property prohibits loitering on the property.
- 4.3 Any person shall be deemed to be loitering within the meaning of this bylaw when he is standing or sitting on any highway, including, without limiting the generality of the foregoing any sidewalk located thereon or within three feet thereof, and fails to vacate the area when requested to do so by a peace officer.
- 4.4 Any person shall be deemed to be loitering within the meaning of this bylaw when he is standing or putting his feet on the top surface of any table, bench, planter or sculpture placed in any public place.
- 4.5 When a peace officer finds any person loitering, he may direct such person to cease such loitering and vacate the area, and any person so directed shall forthwith cease such loitering and vacate.
- 4.6 No prosecution shall be commenced for contravention of the loitering provisions of this bylaw unless a warning to cease loitering and vacate the area has first been given by a peace officer or any person in authority of the property.

5. MOTOR VEHICLES

- 5.1 No person shall use or engage in the use of engine retarder brakes within the Municipality.
- 5.2 No person shall allow a motor vehicle engine to remain running in a residential district or within one hundred and fifty meters of a residential district for longer than 20 minutes while the motor vehicle is not in motion.
- 5.3 The failure of a person to comply with the provisions of the Traffic Safety Act or any regulations thereunder regarding:
- (a) the prohibition against the use of signaling devices on motor vehicles so as to make more noise than is reasonably necessary;
 - (b) the restrictions in the type or use of mufflers and similar equipment;

(c) the prohibition against creating or causing the emission of any loud and unnecessary noise from a motor vehicle; or

(d) the operation of a vehicle on a highway in a residential district between the hours of 10:00 p.m. and 7:00 a.m. in a manner that unduly disturbs the residents of that area is an offence under this Bylaw in addition to and not in substitution for any offence of which a person may be guilty under the provisions of such Act or the regulations thereunder.

6. CONSTRUCTION

- 6.1 Unless written permission from a Development Officer is first obtained, no person shall during quiet hours carry on the construction, repair, alteration, or demolition of any type of structure including but not limited to hammering, sawing, and the use of any power tools or construction equipment capable of creating a sound which may be heard beyond the boundaries of the site on which the activity is being carried on within the Municipality.
- 6.2 Each construction site shall have a waste container to ensure that waste construction materials are placed in the container to prevent the material from being blown away from the construction site.
- 6.3 No loose construction material is to be stored or accumulated on a construction site unless it is not capable of being blown around the construction area.

7. DOMESTIC

- 7.1 No person shall operate construction equipment, power tools, a power lawn mower, or any snow-clearing device in any residential district during quiet hours.

8. INDUSTRIAL

- 8.1 Nothing in this Bylaw shall prevent the continual operation or carrying on of an industrial activity where the activity is one which:
- i. is a permitted use; or
 - ii. is an approved discretionary use;
- 8.2 In the operation or carrying on of an industrial activity, 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.

9. SNOW REMOVAL

- 9.1 No person shall remove snow from commercial or private property in or adjacent to a residential district during quiet hours without a permit granted by the Development Officer.

10. AUTHORITY TO REMOVE

- 10.1 The Chief Administrative Officer may authorize any Municipal employee, or other person, to remove and put in storage or destroy anything placed upon Municipal property in contravention of this bylaw.

11. EXCEPTIONS

- 11.1 This bylaw shall not apply to:
- (a) Any person performing work of an emergency nature for the preservation or protection of life, health, or property, but the onus shall be on the person performing the work to show that the work was of an emergency nature;
 - (b) Any act of maintenance or repair being carried out by employees or contractors of the Municipality;

- (c) Any act of emergency maintenance or repair being carried out by employees or contractors of any private utility;
- (d) The operation of emergency equipment or any emergency vehicle;
- (e) A Peace Officer engaged in performing his duty; or
- (f) Any activity within the sole jurisdiction of the Government of Canada or the Province of Alberta.

12. PERMITS

12.1 A Development Officer may issue a permit to a person for the purpose of allowing noise within a designated area and between designated times. Such permit may be revoked at any time by the Municipality’s Manager.

13. SEVERANCE

13.1 If any section of this Bylaw is found to be illegal or beyond the power of the Municipality’s Council to enact, such section shall be deemed to be severable from all other sections of this Bylaw, and the remaining Bylaw will continue to be in force.

14. PENALTIES

14.1 Any person who contravenes any provision of this By-Law, is guilty of an offence punishable on summary conviction and is liable as outlined in Schedule A.

15. REPEAL

15.1 This bylaw repeals Bylaw # 663-2003.

15.2 This bylaw shall take effect on the date it is passed.

READ a first time this _____ day of _____, 20____.

READ a second time this _____ day of _____, 20____.

UNANIMOUS CONSENT for a third reading this _____ day of _____, 20____.

READ a third time and finally passed this _____ day of _____, 20____.

MAYOR

CHIEF ADMINISTRATIVE OFFICER