

BYLAW NO. 116

A Bylaw of the District of New Hazelton to regulate noise, nuisance and disturbances within the District of New Hazelton.

WHEREAS, under the provisions of Section 932 of the Municipal Act, Chapter 290 of the Revised Statutes of British Columbia 1979, the Council of the District of New Hazelton is empowered to enact a Bylaw to:

- a) Prevent, abate and prohibit nuisances and provide for the recovery of the cost of abatement of nuisances from the person causing the nuisance or other persons described in the Bylaw;
- b) Regulate or prohibit the making or causing of noises or sounds in or on a highway or elsewhere in the Municipality which disturb, or tend to disturb the quiet, peace, rest, enjoyment, comfort or convenience, or of persons in the vicinity or which the Council believes are objectionable or liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public and may make different regulations or prohibitions for different areas of the Municipality;
- c) Prevent or prohibit persons from shouting, using megaphones and making other noise in or at or on streets, wharves, docks, piers, railway stations or other public places;
- d) Prevent charivaries and similar disturbances of the peace;
- e) Prevent vice, drunkenness, profane swearing or indecent, obscene, blasphemous; or grossly insulting language or other immorality and indecency.

NOW THEREFORE the Municipal Council of the District of New Hazelton, open meeting assembled, enacts as follows:

1. DEFINITIONS

ANIMAL shall include: any form of life endowed with voluntary motion.

AUTHORIZED PERSON shall include the following:

- a) A Member of the R.C.M.P.
- b) A Bylaw Enforcement Officer
- c) A Special Constable
- d) An Auxiliary Constable
- e) An Animal Control Officer
- f) The person or persons appointed from time to time by Council to enforce and administrate this Bylaw.

DISTRICT means the District of New Hazelton.

COUNCIL means the Municipal Council of the District of New Hazelton.

NOISE includes any loud outcry, clamour, shouting or movement, or any sound that is loud or harsh or undesirable.

PERMIT shall be a permit as in Schedule "A".

PERMIT APPLICATION shall be as in Schedule "B"

PERSON shall include any corporation, partnership or party and the heirs, executors, administrators or other legal representatives of such person, to whom the context can apply according to law and also includes the owner, his agent or the occupier of or the holder of a purchaser's interest in any agreement for sale of any real or personal property or premises within the District.

PROPERTY shall include real property and includes land together with all improvements which have been so affixed to the land to make them in fact and in law a part thereof, and shall include a highway as determined in the Motor Vehicle Act.

UTILITY shall include water, sewer, electrical, telephone, cable service etc.

2. GENERAL REGULATIONS

- (i) No person shall make or cause, or allow or permit to be made or caused, any noise in or on any property which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity.
- (ii) No person who is the owner or occupier or tenant of property shall use such property or any part thereof or allow or permit such property or any part thereof to be used in such a manner that noise or sound which occurs thereon or emanates therefrom, disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons on the same piece of property or in the neighbourhood or vicinity.
- (iii) No persons shall play or operate or allow or permit or cause to be played or operated any radio, tape recorder, audio playback machine, stereophonic equipment or other instrument or any apparatus for the production or amplification of sound in or on private premises, or in or on any public place in such a manner as to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons on the same piece of property or in the neighbourhood or vicinity.
- (iv) No person shall own, possess, keep, or harbour any dog which by its repeated barking disturbs or tends to disturb the quiet, peace, rest or tranquility of any person or persons in the neighbourhood or vicinity.
- (v) No person shall own, possess, keep or harbour any animal or bird which by its cries disturbs or tends to disturb the quiet, peace, rest or tranquility of any person or persons in the neighbourhood or vicinity.
- (vi) No hawker, huckster, pedlar, newsvendor or other person shall by his intermittent or reiterated cries disturb or tend to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the vicinity.
- (vii) No person shall use or operate a public address system or megaphone or other thing or device emitting or amplifying noise in the District without first having obtained a permit from the District.
- (viii) No person shall operate a motor vehicle, snow vehicle, motorcycle, motorboat, or dune buggy which makes or causes noise which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity.
- (ix) No person shall allow or permit or take part in or be part of any charivaries or other similar disturbances of the peace.
- (x) No person shall commit or abet the committing of any nuisance.
- (xi) No person being the owner, occupier or tenant of property shall allow or permit any nuisance on that property or emanating from that property to remain unabated.

- (xii) No person being the owner, occupier or tenant of property shall allow or permit or be a party to vice, drunkenness, profane swearing or indecent, obscene, blasphemous or grossly insulting language or other immorality or indecency which disturbs or tends to disturb the quiet, peace, rest or tranquility of the neighbourhood or of persons in the vicinity.

3. EXCEPTIONS

1) GENERAL

Nothing in this Bylaw shall preclude:

- (i) The operation of emergency equipment or any emergency vehicle by an authorized person; or
- (ii) Any act of maintenance or repair being carried out by employees or contractors of the District, the Ministry of Highways or any public or private utility; or
- (iii) Any repairs to property of an emergency nature; or
- (iv) Snow removal or dust clearing operations, provided that in the case of private parking lots such actions are commenced as soon as is practicable after the close of business for the day; or
- (v) Any maintenance or repairs or construction to property by the owner, occupier or agent of the said property between the hours of 7:00 a.m. and 10:00 p.m. of the same day; or
- (vi) The operation of a public transportation system; or
- (vii) The operation or use of any public address system required under a building or fire code; or
- (viii) Any person from functioning within the limits of a permit issued under the Fire or Traffic Bylaws of the District or under this Bylaw; or
- (ix) Construction or industrial work between the hours of 7:00 a.m. and 9:00 p.m. of the same day.

2) PERMIT

- 2.1 A permit may be issued by the District Clerk.
- 2.2. Any permit issued pursuant to Section 2.1 shall be in the form prescribed by this Bylaw in Schedule "A".
- 2.3 A permit shall not be issued unless:
 - 2.3.1 it is applied for in writing using the form of application prescribed by Schedule "A"; and
 - 2.3.2 any fee prescribed by this Bylaw for the issuance of a permit has been paid; and
 - 2.3.3 it is signed by the person who intends to create or make noise which is otherwise prohibited by this Bylaw; and
 - 2.3.4 the creation of noise is necessarily incidental to legal activity on land within the District; and
 - 2.3.5 the creation of noise, whether intermittently or continuously created, is limited to, in total, 48 hours or less duration; and

- 2.3.6 the noise cannot be muffled by the person creating it at reasonable expense, or, such noise is created for the purpose of displaying wares, fireworks, celebrations or other similar activities; and
- 2.3.7 the creation of noise cannot be limited to the time span of between 7:00 a.m. and 9:00 p.m. on the same day on any day that it is created.
- 2.4 Any permit issued pursuant to this Bylaw may be revoked by the person who issued it if the information supplied by the applicant to such person for the purpose of seeking the permit is inaccurate or untrue.
- 2.5 A person who operates a business, which is duly licenced to operate within the District, may apply to the Council for a permit to create noise which is necessarily incidental to the business activity of such person.
- 2.6 The applicant for a permit described in Section 2.5 shall file with the District Clerk an application for such permit duly completed and signed by such person in the form prescribed by Schedule "B" to this Bylaw, and the Clerk shall place such application form before Council of the District as soon as is reasonably possible for the purpose of allowing the applicant to have Council determine if such a permit shall be issued.
- 2.7 A permit issued by Council may be revoked by the Council if the information supplied by the applicant to Council is untrue or inaccurate, or, if the Council should subsequently determine that the permit authorizing the creation of noise should be revoked because it unduly disturbs the neighbourhood in which such business of the applicant is carried on.

4) ENFORCEMENT

- (i) Where an authorized person has reasonable and probable grounds to believe and does believe that a nuisance or disturbance involving an animal has been committed and remains unabated or continues, the authorized person may cause the animal to be taken and stored in the District animal pound or other suitable location and all costs incurred with respect to the taking and storing of such animal shall be paid by the owner or harbourer of the animal.
- (ii) Where an authorized person has reasonable and probable grounds to believe and does believe that a nuisance or disturbance is emanating or originating from a motor vehicle, an authorized person may cause such motor vehicle to be taken and stored until such nuisance or disturbance is abated and the costs associated with and incurred with respect to the removal and storage of such vehicle shall be paid by the registered owner of such vehicle.
- (iii) Where an authorized person has reasonable and probable grounds to believe and does believe that any thing or device has been used or is being used to cause a nuisance, noise or disturbance in violation of this Bylaw that authorized person may cause such thing or device to be taken and stored and the costs associated to such action of removal and storage shall be paid by the owner of such thing or device.
- (iv) Where any animal, vehicle, thing or device is impounded in order to prevent the continuation of or to abate any nuisance or disturbance or other violation of this Bylaw, such animal, vehicle, thing or device shall be returned to the owner of it, provided that:

1. The owner shall have applied to the District for its return, and
2. It shall not have been designated by an Authorized Person to be an exhibit for the purposes of proceedings pursuant to this Bylaw, and
3. The owner shall have paid any and all fees, expenses or costs associated with and incurred by the District with respect to the taking and storing of such animal, vehicle, thing or device,

and in such case it shall be returned to the owner of it within seven days from the date of such application.

- (v) Should no application for the return of the animal, vehicle, thing or device be made by the owner within 30 days of the taking thereof, such animal, vehicle, thing or device shall be deemed to be the property of the District, and the District may sell it, or dispose of it to recover any or all costs or expenses associated with such taking, storing and selling, and any surplus over and above such costs shall be returned to the owner of such animal, vehicle, thing or device, providing such owner is known to the District and can be contacted within seven days from the date of the obtaining of a surplus on sale. Should the animal, vehicle, thing or device taken and stored according to the provisions of this Bylaw be declared an exhibit in proceedings to this Bylaw, the disposition of such animal, vehicle, thing or device shall be at the discretion of the Judge or Court in which such proceedings are taken.

5) RIGHT OF ENTRY

Where an authorized person has reasonable and probable grounds to believe and does believe that a violation of this Bylaw exists or that abatement procedures are inadequate, that authorized person may enter upon any property to further an investigation or resolve any violation.

6) NOTICES

Where any notice is required to be given pursuant to this Bylaw, such notice may be given:

- a) orally; or
- b) in writing.

Such notices shall be sufficiently delivered if:

- a) Personally served upon a person apparently aged 16 years or more and apparently occupying the property affected by such notice; or
- b) Sent to the owner of real property by Double Registered mail to his address appearing on the last revised assessment roll; or
- c) Deposited in a place normally used for the reception of mail; or
- d) If affixed to the property in a prominent place.

7) PENALTY SECTION

- (i) Every person who, violates any of the provisions of this Bylaw or who suffers or permits any act or thing to be done in contravention or in violation of any of the provisions of this Bylaw, or who neglects to do or refrains from doing anything required to be done by any of the provisions of this Bylaw, is guilty of an offence against this Bylaw and liable to the penalties hereby imposed.

Each day that a violation continues to exist shall constitute a separate offence.

- (ii) Every person who commits an offence against this Bylaw is liable to a fine of not more than \$2,000.00 and not less than \$100.00 for each offence.

- 8) The Mayor and District Clerk are hereby empowered to do all things necessary to give effect to this Bylaw.

- 9) This Bylaw may be cited for all purposes as "District of New Hazelton Noise Control Bylaw No. 116, 1988".

READ a FIRST TIME this 15th day of MARCH, 1988

READ a SECOND TIME this 29th day of MARCH, 1988

READ a THIRD TIME this 29th day of MARCH, 1988

ALL THREE READINGS passed by a unanimous decision of Members of District Council present and eligible to vote.

RECONSIDERED, FINALLY PASSED

AND ADOPTED this 5th day of APRIL, 1988,

BY A UNANIMOUS DECISION OF ALL MEMBERS OF DISTRICT COUNCIL

PRESENT AND ELIGIBLE TO VOTE.

Larry L. Moore
MAYOR

B. S. Hunt
CLERK

DISTRICT OF NEW HAZELTON

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Box 340, New Hazelton, British Columbia, VOJ 2J0

SCHEDULE "A"
to
BYLAW NO. 116

PERMIT

PURSUANT TO SECTION 3.2 OF BYLAW NO. 116 PERMISSION IS GRANTED
TO:

NAME _____

ADDRESS _____

PHONE _____

TO MAKE OR CAUSE NOISE PURSUANT TO BYLAW NO. 116:

PLACE _____

DATES _____

TIMES _____

REASONS:

APPROVED _____

DATE _____

DISTRICT OF NEW HAZELTON

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Box 340, New Hazelton, British Columbia, VOJ 2J0

SCHEDULE "B"

to

BYLAW NO. 116

APPLICATION FOR NOISE PERMIT

NAME _____

PHONE _____

ADDRESS _____

BUSINESS NAME _____

PHONE _____

ADDRESS _____

WILL NOISE BE: CONTINUOUS INTERMITTENT OCCASIONAL

DESCRIBE NOISE SOURCE _____

REASON FOR PERMIT _____

WHY CAN NOISE GENERATION NOT BE CONFINED TO 7:00 a.m. to 9:00 p.m.?

WHAT IS LOCATED ON ADJACENT PROPERTY? _____

WHAT DATE(S) IS/ARE REQUESTED FOR PERMIT: _____

WILL SOMEONE BE ON SITE AT ALL TIMES? _____ IF NOT, WHO IS TO BE CONTACTED AND WHERE MIGHT PROBLEMS BE ENCOUNTERED? _____