

‘TOWN OF SMITHERS

NOISE CONTROL

BYLAW NO. 1294, 1998”

A Bylaw to Regulate Noise In the Town of Smithers

WHEREAS under the provisions of Section 724 of the *Municipal Act*, being Chapter 323 of the Revised Statutes of British Columbia, 1996, the Council of a municipality is empowered to enact a by-law to regulate or prohibit the making or causing of noises or sounds in or on a highway or elsewhere in the municipality which disturbs, or tends to disturb, the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood, or of persons in the vicinity, or which in the opinion of the Council 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.

NOW THEREFORE the Council of the Town of Smithers, in open meeting assembled, hereby enacts as follows:

DEFINITIONS

1. In this Bylaw:
 - a) “Town” means the Town of Smithers
 - b) “Council” means the Municipal Council of the Town of Smithers
 - c) “Authorized Person” shall mean
 - i) Peace Officer
 - ii) A Bylaw Enforcement Officer
 - iii) Clerk-Administrator means the Clerk-Administrator for the Town of Smithers or person designated.
 - iv) An Auxiliary Constable
 - v) An Animal Control Officer
 - d) “Person” shall include any corporation, partnership, owner, association, society or party.
 - e) “Property” means real property and includes land, other than a highway, together with all improvements which have been so affixed to the land as to make them in fact and in law a part thereof.”

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2. GENERAL REGULATIONS

- a) No person shall make or cause, or permit to be made or caused, any noise in or on a public or private place which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of any person or persons in the neighbourhood or vicinity.
- b) No person being the owner, tenant or occupier of real property shall allow or permit such real property to be used so 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.
- c) No person shall play or operate any radio, stereo-phonics equipment or other instrument or any apparatus for the production or amplification of sound either in or on private premises or in any public place in such a manner as to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in the vicinity.
- d) No person shall own, keep or harbour any animal or bird which by its cries disturbs or tends to disturb the peace, quiet, rest or tranquillity of the surrounding neighbourhood or the public at large.

3. CONSTRUCTION HOURS

- a) No person in the Town shall on any day before 7:00 a.m. (0700 hrs.) or after 10:00 p.m. (2200 hrs.) erect, reconstruct, alter, repair or demolish any building, structure or thing or excavate or fill in land in any manner which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in the vicinity.
- b) Where it is impossible or impractical to comply with this section, the Clerk-Administrator or designate may give written approval to carry on the work that is found to be necessary at designated hours.

Responsibility for obtaining written approval lies with the person carrying on the work.

4. The provisions of this bylaw shall not apply to or be enforced against

- a) A person performing works 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 cause that the work was of an emergency nature.
- b) Any vehicle of the Town of Smithers while engaged upon necessary public business.

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- c) The use of bells or chimes for the announcing of Church services of all kinds.
 - d) The playing of dance music in any licensed dance hall between the hours of 8:00 p.m. (2000 hrs.) and 2:00 a.m. (0200 hrs.) of the following day.
 - e) Any work carried out during restricted hours with permission of the Clerk-Administrator or designate in writing, specifying the time during such restricted hours when such work or event may be performed.
5. a) 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(s) may enter upon any property to further an investigation or resolve any violation.
- b) This bylaw shall be administered by any authorized person.
6. a) 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 incident attended by an authorized person constitutes a separate offence.

- b) Every person who commits an offence against this bylaw is liable to a fine of not more than \$2000.00 and not less than \$100.00 for each offence, as detailed in Schedule "A".
- c) An Authorized person is hereby authorized to issue a "Notice of Offence" to any person alleged to have offended against the Provisions of Section 2(a), 2(b), 2(c), 2(d) and 3(a) of the bylaw and the said Notice shall specify that the Offender may make payment to the Town of Smithers for the Offences as detailed in Schedule "B".

7. ADMINISTRATIVE PROVISION

- a) This Bylaw may be cited as the "Town of Smithers Noise Control Bylaw, No. 1294, 1998".
- b) This Bylaw is effective and in force on all persons as from the day following the date of adoption.
- c) Town of Smithers Noise Bylaw 381, 1970 is hereby repealed and any amendments thereto in its entirety.

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BYLAW NO.1294, 1998"

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READ A FIRST TIME THIS 20TH DAY OF OCTOBER, 1998.

READ A SECOND TIME THIS 20TH DAY OF OCTOBER, 1998.

READ A THIRD TIME THIS 17TH DAY OF NOVEMBER, 1998.

SECOND AND THIRD READING RESCINDED THIS 1ST DAY OF DECEMBER, 1998.

RE-READ A SECOND TIME, AS AMENDED THIS 1ST DAY OF DECEMBER, 1998.

READ A THIRD TIME THIS 1ST DAY OF DECEMBER, 1998.

ADOPTED THIS 15TH DAY OF DECEMBER, 1998.

The Corporate Seal of the Town of Smithers
was hereto affixed in the presence of:

S E A L

Brian J. Northup
Mayor

Wallace Mah
Clerk-Administrator

CERTIFIED A TRUE AND CORRECT
COPY of "Town of Smithers Noise Control
Bylaw No. 1294, 1998".

Wallace Mah
Clerk-Administrator

WM/lp August 10, 2004
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**“TOWN OF SMITHERS
NOISE CONTROL
BYLAW NO. 1294, 1998”
SCHEDULE “A”**

<u>NOISE CONTROL BYLAW NO. 1294</u>	<u>SECTION</u>	<u>FINE</u>
• GENERAL REGULATION DISTURBING THE PEACE	2 (a)(b)(c)(d)	FIRST OFFENCE \$100.00
• GENERAL REGULATION DISTURBING THE PEACE	2 (a)(b)(c)(d)	SECOND OFFENCE \$200.00
• GENERAL REGULATION DISTURBING THE PEACE	2 (a)(b)(c)(d)	THIRD OFFENCE \$350.00
• CONSTRUCTION HOURS	3(a)	\$100.00

**“TOWN OF SMITHERS
NOISE CONTROL
BYLAW NO. 1294, 1998”
SCHEDULE “B”**

NOISE CONTROL BYLAW NO. 1294, 1998

NOTICE OF OFFENCE PURSUANT TO SECTION 2 AND 3 OF THE TOWN OF SMITHERS
NOISE CONTROL BYLAW NO. 1294, 1998

TO: _____

THIS IS YOUR NOTICE OF OFFENCE AS PRESCRIBED UNDER THE SAID BYLAW IN
RESPECT OF THE OFFENCE SHOWN BELOW:

- ANIMAL VIOLATION
- NOISE VIOLATION DISTURBING THE PEACE
- CONSTRUCTION NOISE BEFORE 7:00 A.M. (0700 HRS.) - AFTER 10:00 P.M.
(2200 HRS)
- WARNING IF APPLICABLE
- \$100.00 FIRST OFFENCE
- \$200.00 SECOND OFFENCE
- \$350.00 THIRD OFFENCE
- MANDATORY COURT - 4TH OFFENCE - SUMMONS ISSUED

\$ _____ TOTAL PAYMENT REQUIRED FOR THIS OFFENCE

FOR YOUR INFORMATION

THE OFFENCE OCCURRED AT (PLACE) _____

ON (DATE) _____ AT (TIME) _____

THE PENALTY INDICATED ABOVE MAY BE PAID AT THE TOWN OF SMITHERS
OFFICE DURING REGULAR BUSINESS HOURS AT 3836 - 4TH AVENUE, SMITHERS, B.C.
WITHIN (4) FOUR DAYS OF THE DATE OF THIS NOTICE OF OFFENCE SHOWN BELOW,
IN LIEU OF APPEARING IN COURT TO ANSWER TO ANY CHARGE WITH RESPECT TO
THE SAID OFFENCE.

DATE OF NOTICE _____ TIME SERVED _____

SIGNED _____

R.C.M.P., BYLAW OFFICER OR

AUTHORIZED PERSON

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INITIALS
REQUIRED

INITIALS
REQUIRED

ORIGI- NATOR	CLERK ADMIN	ACTION TO BE TAKEN	CLERICAL STAFF	
			DONE	DATE
		FIRST READING		
		SECOND READING		
		RESCIND SECOND READING		
		AMEND BYLAW AND RE-READ SECOND		
		APPROVAL OF REGIONAL DISTRICT		
		APPROVAL OF MINISTRY OF HIGHWAYS		
		APPROVAL OF INSPECTOR OF MNCPLTS		
		APPROVAL OF MIN. OF MUN. AFFAIRS		
		ADVERTISE BYLAW		
		PUBLIC HEARING		
		THIRD READING		
		RESCIND THIRD READING		
		AMEND BYLAW AND RE-READ THIRD		
		APPROVAL OF INSPECTOR OF MNCPLTS		
		COUNTER-PETITION PROCESS		
		ADVERTISE BYLAW		
		PUBLIC HEARING		
		QUASHING PERIOD		
		ADOPTION		
		QUASHING PERIOD		
		FILE WITH INSPECTOR		

THIS MUST BE COMPLETED BY ORIGINATOR

LEGAL AUTHORITIES _____ *Section 724 Municipal Act* _____

MISCELLANEOUS _____

DONE LIST FOR NOISE CONTROL

BYLAW No. 1294, 1998

Originator: WM

When a bylaw has had a reading:

Enter any action, i.e. readings, on the computer (**don't print that page**); and initial & date the checklist page, i.e. Feb 6, 1998

<u>done on computer</u> (initials)	<u>marked on checklist</u> (initials)
___ Had first and second readings.....	___
___ Third reading.....	___
___	___
___ Been adopted	___

When a bylaw has been adopted:

- ___ Checklist has been put into blue working folder
- ___ Has been deleted from the Follow up list
- ___ Entered on the database, i.e. Feb 3, 1998, and printed for the bylaw index
- ___ Given to originator to re-initial page
- ___ Given to the Administrator for signature

When it comes back from the Administrator:

- ___ Sealed and given to mayor for signature

When it comes back from the Mayor:

- ___ Signed-bylaw copied for the blue working file.
 - ___ Working file includes any relevant pages from Council Minutes.
 - ___ Anything that needed changing in the Bylaw Index, i.e. amendments, etc., has been done
- _____

Bylaw given to Shannon for any possible follow-up, i.e. some of them need to be registered; signature needed on agreement, etc. _____

Finished, ready for filing _____ Shannon's initials