

# THE CORPORATION OF THE VILLAGE OF PEMBERTON

## BYLAW NO. 526, 2004

Being a bylaw to regulate Noise within the Village of Pemberton.

**WHEREAS**, under the provisions of Section 933 of the Local Government Act, the Council of a municipality is empowered to enact a bylaw 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 of individuals or the public, and may make different regulations or prohibitions for different areas of the municipality;

**NOW THEREFORE** the Council of The Corporation of the Village of Pemberton, in open meeting assembled, enacts as follows:

1. This bylaw may be cited as The Corporation of the Village of Pemberton Noise Control Bylaw No. 526, 2004.

### 2. DEFINITIONS

- a) Words defined in the “Motor Vehicle Act” as amended from time to time, and the Local Government Act as amended from time to time, shall have the same meaning when used in this bylaw unless defined in this bylaw or unless the context of otherwise requires.
- b) In this bylaw, unless the context otherwise requires:
  - i. “Village” means the Village of Pemberton;
  - ii. “Council” means the Municipal Council of the Village of Pemberton;
  - iii. “Person” includes any company, corporation, owner, partnership, firm, association, society or party;
  - iv. “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;
  - v. “Clerk-Administrator” means the person appointed by Council to this position from time to time;
  - vi. “Director of Development Services” means the person appointed by Council to this position from time to time.

### 3. 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 person 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 unless written approval is obtained from the Clerk-Administrator.
- d) Responsibility for obtaining the written approval lies with the person that requires the approval.
- e) 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 tranquility of the surrounding neighbourhood or the public at large.

- f) Engine Brakes (Jake Brakes) shall not be used within the boundaries of the Village of Pemberton.

#### **4. CONSTRUCTION HOURS**

- a) No person in the Village shall on Monday through Saturday before 0700 hours or after 2100 hours and on Sundays and Statutory Holidays before 1000 hours and after 1600 hours construct, erect, reconstruct, alter, repair or demolish any building, structure or thing or excavate or fill in land.
- b) 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) Where it is impossible or impractical to comply with this section, the Director of Development Services may give written approval to carry on the work that is found to be necessary at designated hours.
- d) Responsibility for obtaining written approval lies with the persons carrying on the work.

#### **5. EXCLUSION**

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

- a) Any business or Industry established in accordance with the Village of Pemberton's Zoning Bylaw No. 466, 2001 and it's amendments, including the M1 (Industrial Park) and A1 (Agricultural) zones.
- b) An operator or agricultural machinery or equipment, which shall include tractors, sprayers and scare devices in the conduct of a farm operation being operated in accordance with normal farm practices;
- c) The Corporation of the Village of Pemberton, its employees or sub-contractors while engaged in works of an emergency nature, which shall include fire alarms, ambulance calls, repairs to municipal utility services, snow plowing, sanding, snow removal, mechanical street sweeping;
- d) Any Police Officer in the discharge of his/her duties.

#### **6. OTHER**

- a) Notwithstanding any provisions of this bylaw, a person may perform works of an emergency nature for the preservation 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) If any article or provision herein is determined to be void or unenforceable in whole or in part, it shall not be deemed to affect or impair the enforceability or validity of any other article or provision of this bylaw or any part thereof.

#### **7. PENALTY SECTION**

- 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, who neglects to do or refrains from doing anything required to be done by any of the provisions of this bylaw or who does any act which violates 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.

- b) Every person who commits an offence against this bylaw is liable to a fine and penalty of not more than ten thousand dollars (\$10,000.00) and not less than five hundred dollars (\$500.00) for each offence, and in default of payment thereof, forthwith or within such time as the presiding Provincial Court Judge or Justice of the Peace shall direct the fine imposed shall be recoverable under the provisions of the Offence Act.

## **8. REPEAL**

Bylaw No. 280, 1990, as amended, is hereby repealed.

**READ A FIRST TIME** this 14<sup>th</sup> day of September, 2004

**READ A SECOND TIME** this 5<sup>th</sup> day of October, 2004

**READ A THIRD TIME** this 5<sup>th</sup> day of October, 2004

**RECONSIDERED, FINALLY PASSED AND ADOPTED** this 19<sup>th</sup> day of October, 2004

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Mayor

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Clerk - Administrator