

VILLAGE OF LIONS BAY

BYLAW NO. 283

A By-law to Regulate Noise within the Village of Lions Bay

WHEREAS the Council is authorized by the Municipal Act by bylaw to regulate or prohibit the making of noise in the Village which the Council believes to be objectionable or liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public;

AND WHEREAS it is the opinion of Council that, for the benefit of individuals and the public at large, there must be regulations and prohibitions regarding the making of noise;

NOW THEREFORE the Village Council of the Village of Lions Bay in open meeting assembled, enacts as follows:

This By-Law may be cited as "The Village of Lions Bay Noise Control By-Law No. 283, 1998."

DEFINITIONS

1. In this Bylaw, unless the context otherwise requires:

"chain saw" means a portable saw which uses a cutting chain and is powered by an internal combustion engine or electric motor;

"chipper" means a portable device used to chip, shred or grind wood waste and is powered by an internal combustion engine or electric motor;

"construction" means the erection, alteration, repair, painting, maintenance, relocation, demolition or removal of a building or other structure and includes all land clearing, landscaping, earth moving, grading, excavating, all public works activities, the erection or laying of lines, cable, pipes and conduit (whether above or below ground level), street building, paving, concreting and similar activities on a site and the installation, alteration or removal of construction equipment, components and materials in any form or for any purpose, and any work being done in connection therewith;

"continuous sound" means any sound occurring without interruption for more than three minutes, or occurring repeatedly for periods of time which aggregate more than three minutes in any fifteen minute period;

"daytime" means the period from 0700 hours to 1900 hours of the same day;

"emergency vehicle" means an emergency vehicle as defined by the Motor Vehicle Act, R.S.B.C., 1996, c. 318;

"holiday" means a holiday as defined by the Interpretation Act., R.S.B.C., 1996, c. 238;

"leaf blower" means a machine powered by an internal combustion engine or electric motor used for the movement of debris, leaves, grass and other materials by forced air or suction;

"motor vehicle" means a motor vehicle as defined by the Motor Vehicle Act, R.S.B.C., 1996, c. 318;

"nighttime" means the period from 1900 hours of any day to 0700 hours of the following day;

"noise" means any sound which is prohibited by this Bylaw;

"Noise Control Officer" means any Peace Officer, the Village Clerk, the designated Village By-Law Enforcement Officer, or any other employee of the Village designated as such by the Village Council;

"non-continuous sound" means any sound other than continuous sound;

"point of reception" means any premises where sound is received, other than the premises from which the sound originates;

"power equipment" means any tool, equipment or machinery powered by an internal combustion engine or electric motor that is used for construction, for lawn, garden, building and property maintenance, and includes edge trimmers, line trimmers, rototillers, lawnmowers, pressure washers, carpet cleaning equipment and hand operated power tools, but excludes chain saws, chippers and leaf blowers;

"premises" means a parcel of land or a structure, including a floating structure, or any part thereof, situated within the Village;

"sound level" means the sound pressure level measured in decibels using the "A" weighting network setting of a sound level meter (being a device listed in ANSI Type II or IEC 123 that is calibrated for the measurement of sound and includes Bruel and Kjaer's Precision Sound Level meter, which setting meets the minimum specifications set out in ANSI Type II or IEC 123);

"vehicle" means a vehicle as defined by the Motor Vehicle Act, R.S.B.C., 1996, c. 318;

"Village" means the Village of Lions Bay;

"weekday" means any day, not being a holiday, from Monday to Friday, inclusive.

NO DISTURBING SOUNDS

2. Save as permitted by the provisions of the Bylaw, no person shall make, cause or permit to be made, any sound in the Village which disturbs the tranquility, rest, enjoyment, comfort or convenience of persons at any point of reception.

SOUND LEVELS

3. No person shall make, cause or permit to be made within the Village a continuous sound with a sound level that, measured at a point of reception, exceeds 55 decibels in the daytime or 45 decibels in the nighttime.

PROHIBITION OF SOUNDS OF SPECIFIC ORIGIN

4. Despite the provisions of Section 3, no person shall, unless exempted under Section 6, make or cause or permit to be made:
 - (a) a continuous sound during the daytime or nighttime of any day, regardless of sound level, for a period of time in excess of 15 minutes by:
 - i) the use of any electronic equipment, musical instrument, whistle, siren, horn, drum or other device or apparatus which emits, produces or amplifies sound;
 - ii) shouting, clamour or singing;
 - iii) the bark, call or cry of an animal; or
 - iv) the operation of any power equipment;

which can be heard by a person at a point of reception;
 - (b) a sound during the daytime or nighttime of any day produced in the course of construction;
 - (c) a sound during the daytime or nighttime of any day by:
 - i) the operation of a chain saw, a chipper or a leaf blower;
 - ii) loading or unloading goods, materials, machines, equipment, waste or garbage by any means; or
 - iii) the operation of any power equipment for construction or for the building or repair of a motor vehicle or boat

which can be heard by a person at a point of reception;

- (d) a sound during the daytime or nighttime of any day caused by the use of an explosive device or the operation of a rock drill or rock hammer which can be heard by a person at a point of reception;
- (e) a sound during the daytime or nighttime of any day produced in the course of:
 - i) the performance of vocal or instrumental music;
 - ii) the performance of a play, dance or other theatrical production, or
 - iii) the conduct of a meeting, gathering or assembly,
 from a location in a park, school ground or other premises not inside a building;
- (f) a continuous sound during the daytime or nighttime of any day, emitted, produced or amplified at a sound level in excess of 65 decibels by any electronic equipment or other device or apparatus carried on or in or towed by a motor vehicle while the motor vehicle is moving on a highway or stationary on any premises.

VEHICULAR SOUND

- 5. Notwithstanding any other provision of this Bylaw, the following sounds are hereby prohibited:
 - (a) a sound caused by the use of a motor vehicle horn or other similar warning device except for the purpose of giving an audible warning when necessary for the safe operation of such vehicle, or for the safety of others on a highway;
 - (b) a sound caused by the use of a motor vehicle alarm system more than once in any two hour period.

EXCEPTIONS

- 6. The provisions of this Bylaw shall not apply to sound caused by:
 - (a) Peace Officers, fire fighters and operators of emergency vehicles in the conduct of their lawful duty;
 - (b) the operation of an emergency vehicle or motor vehicle in the course of its normal use;
 - (c) the performance of activities of an emergency nature for the preservation or protection of life, health or property;
 - (d) the operation of power equipment used for lawn, garden, building or property maintenance, but excluding construction, on any day other than a Sunday or holiday between 0800 hours and 2000 hours and between 1000 hours to 2000 hours on a Sunday or holiday;
 - (e) construction between 0730 and 1730 hours on any Saturday or weekday which hours may, except on a Friday or Saturday, be extended to 2000 hours to complete the placing or finishing of concrete; provided that no continuous sound is permitted which exceeds the sound level set out in Section 3;
 - (f) the use of a chain saw, a chipper or a leaf blower between 0900 hours and 1600 hours on any day other than a Sunday or holiday;
 - (g) the use of an explosive device or the operation of a rock drill or rock hammer in accordance with a permit issued under a bylaw of the Village, between 0730 hours and 1730 hours on any day except a Saturday, Sunday or holiday;
 - (h) the loading or unloading of goods, materials, machines, equipment, waste or garbage by any means, except on a Sunday or holiday between 0730 hours and 1730 hours;
 - (i) the operation of a street sweeper, snow removal and subject to section 6(f), road and parks maintenance machines and equipment by or on behalf of the Village;

- (k) activities necessarily required for the operation of a licensed marina, and the vessels moored or navigating within its boundaries, between sunrise and sunset of any day; provided that activities necessary for the repair of a vessel shall only be permitted on any day other than a Sunday or holiday between 0730 hours and 1730 hours, and further provided that no continuous sound is permitted which exceeds the sound level set out in Section 3;
- (l) the unamplified performance of vocal or instrumental music by a person or a group of persons between the hours of 1500 hours and 2000 hours;
- (m) activities or work specifically exempted from this Bylaw by a resolution of Council provided such conditions or requirements as may be imposed by Council are observed or met.

RIGHT OF ENTRY

- 7. A Noise control Officer may at all reasonable times enter upon any premises in order to ascertain whether the provisions of this Bylaw are being observed.

SEVERABILITY

- 8. If a court of competent jurisdiction should declare any section or part of a section of this Bylaw to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the Bylaw and it is hereby declared that the remainder of the Bylaw shall be valid and shall remain in force.

PENALTY

- 9. (a) Every person who violates any of the provisions of this Bylaw shall be guilty of an offence punishable on summary conviction and shall be liable to a fine not exceeding the maximum penalties set by the Offence Act.
- (b) Where a person contravenes any provision of this Bylaw each day the contravention continues is a separate offence.

REPEAL

- 10. Village of Lions Bay Noise Control Bylaw No. 128, 1984 and amendments thereto are repealed.

READ A FIRST TIME this 6th day of July, 1998.

READ A SECOND TIME this 6th day of July, 1998.

READ A THIRD TIME this 6th day of July, 1998.

ADOPTED this 14th day of September, 1998.

Mayor

Clerk

Certified a true copy
of By-law No. 283
as adopted.

_____ Clerk