



CITY OF PORT ALBERNI

**Noise Control Bylaw 2009, No. 4718
(with amendments to October 9, 2012)
Consolidated for convenience only**

This consolidation is not a legal document. Certified copies of the original bylaws should be consulted for all interpretations and applications of the bylaws of this subject.

This Bylaw has been consolidated for convenience only and includes amendments from:

Bylaw No. 4804 - adopted October 9, 2012

Consolidated to Include Bylaw No. 4804

CITY OF PORT ALBERNI

BYLAW NO. 4718

A BYLAW TO REGULATE NOISE WITHIN THE CITY OF PORT ALBERNI

WHEREAS the City of Port Alberni wishes to promote a peaceful and inviting community for all of its citizens, businesses and visitors;

AND WHEREAS it is recognized that excess noise interferes with the peace, rest, enjoyment, convenience, and comfort of the public and adversely affects the well-being of the community;

AND WHEREAS it is in the public interest for the City to take the necessary measures to reduce noise to acceptable levels;

AND WHEREAS pursuant to section 8(h) of the *Community Charter*, the Council of the City of Port Alberni may, by bylaw, regulate, prohibit, and impose requirements in relation to the protection and enhancement of the well-being of its community in relation to nuisances, disturbances, and other objectionable situations as defined in section 64 of the *Community Charter*.

NOW THEREFORE the Council of the City of Port Alberni in open meeting assembled enacts as follows:

1. TITLE

This Bylaw shall be cited as the City of Port Alberni "**Noise Control Bylaw 2009, No. 4718**".

2. DEFINITIONS

In this Bylaw:

City means the City of Port Alberni or the area within the boundaries thereof as the context may require;

Enforcement Officer means a person appointed by the Municipal Council as a Bylaw Enforcement Officer or a member of the Royal Canadian Mounted Police;

Noise includes any sound, or vibration associated to a sound;

Owner in the case of real property is the person whose name appears on the State of Title Certificate, or in the case of a motor vehicle, the most recent person recorded as the registered owner on the records of the Insurance Corporation of British Columbia;

Person includes a natural person, any company, corporation, owner, partnership, firm, association, society or party;

Private Property means any property owned by a person or legal entity other than the City of Port Alberni;

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,

Public Place includes every highway, street, lane, sidewalk, park, courtyard, square, walkway, parkade and any other area open to public use.

Words defined in the *Motor Vehicle Act* being Chapter 318 of the Revised Statutes of British Columbia, 1996, and the *Community Charter* Statute of British Columbia, 2003, Chapter 26, shall have the same meaning when used in this bylaw unless defined in this bylaw or unless the context otherwise require

3. GENERAL PROHIBITION

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.

4. SPECIFIC PROHIBITIONS

Without limiting the generality of Section 3, no person shall undertake the following activities which by their nature cause noise that is considered to be objectionable and likely to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the public:

- a) Operate or play any radio, stereophonic equipment, television, musical instrument or any other amplified apparatus before 8:00 AM or after 11:00 PM at a volume that may be heard inside a neighboring dwelling;
- b) Harbor or keep any animal or bird that persistently squawks, whines, howls, barks, or cries;
- c) Operate any motorized vehicle, equipment, or boat with an inoperative or ineffective muffler;

Bylaw #4804 amendment replaces Section 4(d) below:

- d) Operate any motorized lawn or yard maintenance equipment before 7:00 AM or after 9:00 PM;
- e) Idle or continuously run a diesel engine, truck, bus, or any vehicle with a low restriction muffler for more than 15 minutes in a general area;
- f) Construct, erect, reconstruct, alter, repair or demolish any building, structure, or roadway or operate any motorized construction equipment before 7:00 AM or after 10 PM;

- g) Load, unload, deliver, collect, pack, unpack, or otherwise handle any containers products, materials, or refuse before 7:00 AM or after 10:00 PM;
- h) Operate or use an unmonitored house or vehicle alarm;
- i) Operate or use an engine braking device within the City;
- j) Operate or use a public address system or amplified hailing device;
- k) Persistently shout, scream, yell, yelp, or use profane swearing; or use indecent, obscene, or grossly insulting language.

5. EXEMPTIONS

Noise associated to the following activities is exempt from the provisions of this bylaw:

- a) Emergency services personnel and equipment engaged in a duty related activity;
- b) A horn or signaling device on a boat, train, or vehicle when used as a danger or warning signal;
- c) City, Provincial, or Federal government personnel, or a utility company engaged in a public service for convenience or necessity;
- d) Noise or sound created while performing work of an emergency nature or as an emergency measure to alert or repel persons or animals for the protection or preservation of life, health, or property;
- e) Noise or sound created from authorized public parades, fairs, or other such events;
- f) Noise or sound where a permit has been granted by the City Engineer;
- g) Usual and reasonable noise or sound associated to an organized sporting event conducted on a playing field;
- h) Noise or sound associated to a school event, or to children at play in a school ground, day care, or playing field.

6. PERMITS

Where it can be shown that it is unavoidable, in the public interest, or an otherwise necessary function of a construction or demolition project to create an extraordinary level of noise that is likely to disturb the public, a permit may be issued by the City Engineer or his or her designate specifying the date, time, and duration of the noise and whatever measures the City Engineer believes are appropriate to protect or minimize the inconvenience to the public.

7. ENFORCEMENT

- a) Enforcement Officers are authorized to enforce this Bylaw;
- b) An Enforcement Officer is authorized to enter onto any property or into any building without warrant to ascertain that the provisions of this bylaw are being met and, where the owner or occupant of the property refuses to comply with an order to stop or reduce the noise, or where no person is in control of the device, instrument, vehicle, or thing making a noise, may impound or disable any device, instrument, vehicle, or thing that is making a noise.
- c) Where a device, instrument, vehicle, or thing is seized under Section 7. b), the device, instrument, vehicle, or thing may be immediately returned to the owner or other competent person upon receiving a written request with a declaration that the device, instrument, vehicle, or thing will not be used to continue the noise;
- d) Where device, instrument, vehicle, or thing is returned under Section 7. c) and is again used to produce noise within a 12 hour period, a separate offence is committed and the device, instrument, vehicle, or thing may again be impounded and the provision of Section 7. c) no longer applies;
- e) Where a device, instrument, vehicle, or thing is impounded under Section 7. b) or 7. d) it shall be the responsibility of the owner to recover the device, instrument, vehicle, or thing from the Enforcement Officer during regular office hours not less than one day following the offence and if not recovered within 30 days shall be deemed abandoned property and become property of the City to be sold at public auction;
- f) Where a disturbing noise is emanating from a vehicle or property and no person is in control of the noise, the owner of the vehicle or property shall upon notification take such measures as are necessary to ensure the noise is stopped or reduced and, furthermore, take all necessary measures to ensure the noise does not resume;
- g) Where an owner fails to take the necessary measures as per Section 7. f), the owner is deemed to have permitted the noise for the purpose of Section 3.

8. PENALTY

- a) Any person who contravenes a provision of this bylaw commits an offence and is liable upon summary conviction of a fine of not less than \$1000.00 and not more than \$10,000;
- b) This Bylaw is designated, pursuant to section 264 of the *Community Charter*, S.B.C. 2003, c.26, as a Bylaw that may be enforced by means of a ticket in the prescribed form;

- c) The words or expressions listed in Schedule "A" of this Bylaw in the "Designated Expression" column are authorized to be used on a ticket, pursuant to section 264(1)(c) of the *Community Charter*, to describe an offence against the respective section of this Bylaw appearing in the "Section" column and shall be subject to a fine as listed in the corresponding "Fine Amount" column, set as per Section 265 of the *Community Charter*,
- d) Each day a person is in contravention of this Bylaw constitutes a separate offence.

9. SEVERABILITY

If any portion of this bylaw is held to be invalid by a decision of a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this bylaw.

10. REPEAL

Bylaw 3628 and 4253 are hereby repealed.

READ A FIRST TIME THIS 14TH DAY OF APRIL, 2009.

READ A SECOND TIME THIS 14TH DAY OF APRIL, 2009.

READ A THIRD TIME THIS 14TH DAY OF APRIL, 2009.

FINALLY ADOPTED THIS 27TH DAY OF APRIL, 2009.

Mayor

Clerk

SCHEDULE "A"

FINE SCHEDULE

Designated Expression	Section	Fine Amount
Cause disturbing noise	3.	\$150
Permit disturbing noise	3.	\$150
Amplified noise outside permitted hours	4. a)	\$150
Noise from animal	4. b)	\$150
Inoperative muffler	4. c)	\$150
Yard equipment outside permitted hours	4. d)	\$150
Idle vehicle	4. e)	\$150
Construction outside permitted hours	4. f)	\$150
Loading outside permitted hours	4. g)	\$150
Unmonitored Alarm	4. h)	\$150
Use engine brake	4. i)	\$150
Use amplified device	4. j)	\$150
Vocal noise	4. k)	\$150