

## VILLAGE OF BIRCH COVE

### BYLAW 151-22

#### **A Bylaw of the Summer Village of Birch Cove, to prohibit certain nuisances, disturbances and activities creating noise; and to abate the incidence of noise and to restrict when certain sounds may be made**

**WHEREAS** pursuant to the Municipal Government Act, RSA 2000, the Council of the Village may pass a bylaw respecting the safety, health, and welfare of people and the protection of people and property and respecting the people, activities, and things in, on, or near a public place.

**NOW THEREFORE THE MUNICIPAL COUNCIL OF THE VILLAGE OF BIRCH COVE, IN THE PROVINCE OF ALBERTA, DULY ASSEMBLED, ENACTS AS FOLLOWS:**

#### **SHORT TITLE**

1. This Bylaw may be cited as the “Noise, Nuisance and Public Disturbances Bylaw”.

#### **DEFINITIONS**

2. In this bylaw:
  - (a) “Construction Equipment” includes, but is not limited to trenching machines, concrete mixers, backhoes and similar equipment.
  - (b) “Disturbance” means the interruption of the peace, quiet and good order of a neighbourhood or community, including but not limited to unnecessary and distracting noises.
  - (c) “Nuisance” includes, but is not limited to, any activity which substantially and unreasonably interferes with another person’s use and enjoyment of a roadway, park or other public area, or of land a person owns or occupies, or which causes injury to the health, comfort or convenience of an occupier of land, and without limiting the generality of the foregoing, includes an activity such as a noisy party, a group of people making a noise, loud music, revving engines, lights directed beyond property boundaries, yelling/shouting/screaming, or fighting
  - (d) “Peace Officer” means a member of the Royal Canadian Mounted Police, a Special Constable appointment pursuant to the provisions of the Police Act (Alberta), or a Bylaw Enforcement Officer of the Summer Village of Birch Cove.
  - (e) “Person” means an individual or any business or other entity including a Firm, Partnership, Association, Corporation, Company, or Society but does not include the Village.
  - (f) “Power Tool” includes any tool powered by an engine, motor, or compressed air.

- (g) “Public Place” means any place including privately and publicly owned or leased property, to which the public reasonably has or is permitted to have access, whether on payment or otherwise, within the municipal limits of the Village of Birch Cove.
- (h) “Public Property” means any schoolyard, highway, parkland, public bridge, road, lane, footway, alley or passage, whether a thoroughfare or not, and includes any open space to which the public have or are permitted to have access.
- (i) “Village” means the Summer Village of Birch Cove or where the context permits, means the area within the municipal limits of the Summer Village of Birch Cove.

### **GENERAL PROHIBITION**

- 3. Except to the extent permitted by this bylaw, noise regulations are in effect from 11:00 pm to 7:00 am every day within the Village. Construction Noise is limited from 7:00 am to 11 pm Monday to Friday, and 9 am to 11 pm on Saturdays, Sundays and statutory holidays.
- 4. Except to the extent permitted by this bylaw, no person shall make, continue, cause or allow to be made or continued any unreasonably loud, raucous or unusual noise which annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of any other person of ordinary sensitivity within the Village.
- 5. Except to the extent permitted by this bylaw, no person shall permit, suffer or allow property, real or personal which he owns, occupies or controls, to be used in a manner such that there emanates therefrom any unreasonably loud, raucous or unusual noise which annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of any other person of ordinary sensitivity within the Village.
- 6. Factors for determining whether a sound is unreasonably loud, raucous or unusual include, but are not limited to, the following:
  - (a) proximity of the sound to sleeping facilities;
  - (b) the time of day or night the sound occurs;
  - (c) the duration and volume of the sound; and
  - (d) whether the sound is recurrent, intermittent or constant.

**CONSTRUCTION**

9. Unless written permission from the Council is first obtained, no person shall during quiet hours carry on the construction, repair, alteration, or demolition of any type of structure including but not limited to hammering, sawing, and the use of any power tools or construction equipment capable of creating a sound which may be heard beyond the boundaries of the site on which the activity is being carried on within the Village between the hours of 11 pm to 7 am on any weekday and between 11 pm to 9 am on Saturdays, Sundays and Statutory Holidays.

**DOMESTIC**

10. No person shall operate construction equipment, power tools, yard maintenance equipment, or any power lawn mower, or any snow-clearing device between the hours of 11 pm to 7 am on any weekday and 11 pm to 9 am on Saturdays, Sundays and Statutory Holidays.

**LIGHTING**

11. Unless written permission from the Council is first obtained, no person shall create or use lighting which may be continues beyond the boundaries of their property or site on which the activity is being carried on within the Village that annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of any other person of ordinary sensitivity within the Village.

**EXCEPTIONS**

12. This bylaw shall not apply to:
  - (a) Any person performing work 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 that the work was of an emergency nature;
  - (b) Any act of maintenance or repair being carried out by employees or contractors of the Village;
  - (c) Sanctioned Birch Cove Community League sponsored events as per the schedule of events provided to the Council by the Birch Cove Community League;
  - (d) Any act of emergency maintenance or repair being carried out by employees or contractors of any private utility;
  - (e) The operation of emergency equipment or any emergency vehicle;

- (f) A Peace Officer engaged in performing his duty; or
- (g) Any activity within the sole jurisdiction of the Government of Canada or the Province of Alberta.

### **PENALTIES**

13. Any person who contravenes any provision of this Bylaw, is guilty of an offence punishable on summary conviction and is liable:
  - a) for a first offence to a fine of \$250.00; or
  - b) for a second or subsequent offence, to a fine of not less than \$500.00 and not more than \$2,500.00.
14. Where an officer believes that a person has contravened any provision of this bylaw, he may commence proceedings by issuing a violation ticket in accordance with the *Provincial Offences Procedure Act*, R.S.A. 2000, provided however that, this section shall not prevent any officer from issuing a violation ticket requiring the court appearance of the defendant or from laying an information instead of issuing a violation ticket.
15. Each occurrence of a contravention of this Bylaw, or in the case of continuous contraventions, each day a contravention occurs or continues, constitutes a separate offence and may be punished separately.
16. Any costs incurred for a peace officer to carry out enforcement of this bylaw will:
  - (a) if the complaint is found invalid, an administration fee of \$200.00 to be paid by the complainant within 30 days of written notice from Council; or thereafter added to their property taxes, or
  - (b) if the complaint is found valid, in addition to any fines levied by the Peace Officer, an administration fee of \$200.00 to be paid by the offender within 30 days of written notice from Council; or thereafter added to their property taxes.

17. This bylaw shall take effect on the date it is passed.

**READ** a first time this  17  day of  September , 2022.

**READ** a second time this  17  day of  September , 2022.

**READ** a third time and finally passed this   day of  , 2022.

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MAYOR – Steven Tymafichuk

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CAO – Allyson Araujo