

REGIONAL DISTRICT OF NANAIMO

BYLAW NO. 1103

**A BYLAW TO REGULATE OR PROHIBIT
OBJECTIONABLE NOISE WITHIN
ELECTORAL AREA 'C'**

WHEREAS the Regional District of Nanaimo has established an extended service for noise control under Section 799(1)(b) of the Municipal Act;

AND WHEREAS the Board believes that:

- (a) certain sounds are objectionable or liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public; and
- (b) it is desirable to regulate or prohibit them;

AND WHEREAS it is not the intent of the Board to prevent or prohibit those sounds customarily emitted or usually associated with the normal conduct of reasonable daily activity at reasonable times;

AND WHEREAS the advertising provisions under Section 839 of the Municipal Act have been met;

NOW THEREFORE the Board of the Regional District of Nanaimo in open meeting assembled, enacts as follows:

1. INTERPRETATION

In this bylaw:

“Board” means the Board of Directors of the Regional District of Nanaimo.

“Bylaw Enforcement Officer” includes a Peace Officer and a person appointed by the Board as a Bylaw Enforcement Officer.

“Continuous Noise” means any noise or sound continuing for a period of more than three (3) minutes or during periods totalling more than three (3) minutes in any fifteen (15) minute period of time.

“District” means the Regional District of Nanaimo.

“Motor Vehicle” includes an automobile, motorcycle and any other vehicle propelled or driven otherwise than by muscular power, but does not include the cars of electric or steam railways or other motor vehicles running only upon rails, or traction engine, farm tractor or self-propelled implement of husbandry, or road building machinery.

“Persistent” means enduring or constantly repeated.

“Real Property” means land other than a highway, together with all improvements which have been so affixed to the land as to make them in law a part of the land and includes land without improvements.

“Residential Premises” means land upon which is located a building or structure, including a mobile home used seasonally or permanently for human occupancy.

2. **TITLE**

This bylaw may be cited as the “Regional District of Nanaimo Electoral Area ‘C’ Noise Control Regulatory Bylaw No. 1103, 1998”.

3. **JURISDICTION**

This bylaw is applicable to and enforceable within Electoral Area ‘C’ as defined by Letters Patent.

4. **OBJECTIONABLE AND DISTURBING NOISES**

The acts listed in Schedule ‘A’ to this bylaw are considered by the Board to cause noises or sounds which are objectionable or liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public in the neighbourhood or vicinity of those acts.

5. **PROHIBITION BY TIME OR PLACE**

(a) No person shall commit, cause or permit the commission of an act listed in Schedule ‘A’ to this bylaw which results in the emission of a continuous noise which is audible at a residential premises in the vicinity or in a public place during the period of time specified in respect of that Act in Schedule ‘A’.

(b) No person, being the owner, tenant or occupier of real property shall allow the real property to be used so that a continuous noise occurs on or is emitted from that real property.

6. **EXCEPTIONS**

The prohibitions contained in Section 5 of this bylaw do not apply to the emission of sound in connection with an act listed in Schedule ‘B’.

7. **INSPECTION AND ENTRY**

A Bylaw Enforcement Officer is hereby authorized to enter, at all reasonable times, in any property, subject to the regulation or direction of the Board, to ascertain whether the regulations, requirements or directions of this bylaw are being observed.

8. **SCHEDULES**

Schedules 'A' and 'B' form a part of and are enforceable in the same manner as this bylaw.

9. **PENALTY**

- (a) A person who violates any of the provisions of this bylaw or who suffers or permits any act or thing to be done in contravention of this bylaw, or who refuses, or omits or neglects to fulfill, observe, carry out or perform any duty or obligation imposed by this bylaw, shall be liable on summary conviction for the first offense, to a penalty of not less than \$100 and not more than \$2,000, and for a second or subsequent offense, to a penalty of not less than \$250 and not more than \$2,000.
- (b) In the case of a continuing violation, each day that a violation continues to occur shall constitute a separate offense.

10. **SEVERABILITY**

If any provision of this bylaw is held to be beyond the power of the Regional District by any Court of competent jurisdiction, then the provision may be severed from the remainder of the bylaw without affecting the validity of any other provision.

11. **REPEAL**

- (a) "Regional District of Nanaimo Electoral Area 'C' Noise Control Bylaw No. 865, 1992" is hereby repealed.
- (b) "Regional District of Nanaimo Electoral Area 'C' Noise Control Amendment Bylaws No. 865.01 and 865.02 are hereby repealed.

Introduced and read three times this 6th day of January, 1998.

Advertised in accordance with Section 839 of the Municipal Act this 20th day of February, 1998.

Adopted this 10th day of March, 1998.

CHAIRPERSON

SECRETARY

Chairperson

Secretary

SCHEDULE 'A'
PROHIBITIONS OF TIME

| Act | Prohibited Period of Time |
|--|---------------------------|
| 1. The operation of an electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electro-mechanical transducers, and designed for the production, reproduction or amplification of sound, including but not limited to radios, record players, compact disc players, televisions, receivers and audio and video tape players. | 11:00 p.m. to 8:00 a.m. |
| 2. The operation of an auditory signalling device, including but not limited to the ringing of bells or gongs and the blowing of horns or sirens or whistles, or the production, reproduction or amplification of any similar sounds by electronic means except where required or authorized by law. | 10:00 p.m. to 8:00 a.m. |
| 3. Persistent barking, calling, whining or other similar persistent sound made by a domestic pet, other animal or bird, kept or used for a purpose other than agriculture. | At all times |
| 4. Yelling and shouting. | At all times |
| 5. The operation of a motor vehicle other than on a highway, private road or for the purpose of travelling directly to and from a parking space in a parking lot. | 11:00 p.m. to 8:00 a.m. |
| 6. The operation of a motor vehicle on a highway in a manner which results in tires squealing, racing its engine or without effective unmodified exhaust or intake muffling device which is in good working order and in constant operation. | At all times |
| 7. The operation of a mechanical device, including but not limited to power saws and compressors. | 10:00 p.m. to 7:00 a.m. |
| 8. The running of the engine of a motor vehicle while the vehicle is stationary other than during a period of time required by an enactment for a particular type of motor vehicle. | 11:00 p.m. to 8:00 a.m. |

Chairperson

Secretary

SCHEDULE 'B'

EXCEPTIONS

Sound emitted in connection with:

1. Emergency Measures Undertaken

- (a) for the immediate health, safety or welfare of any person or persons, or
- (b) for the preservation or restoration of property

unless the sound is of a longer duration or of a nature more disturbing than is reasonably necessary for the accomplishment of such emergency purpose.

2. Works or activity associated with and necessarily incidental to:

- (a) construction, erecting, reconstructing, altering, repairing or demolishing of buildings, structures or things;
- (b) excavating, grading or filling land;
- (c) installing, altering, repairing or removing public facilities or utilities;
- (d) repairing or raising a highway; or
- (e) well drilling.

between 7:00 a.m. and 10:00 p.m. on any day.

3. Traditional, religious or other activities.

4. Shouting in relation to games played in a community park.