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February 2017

NOISE CONTROL BYLAW

Bylaw No. 3848, 1982

CONSOLIDATED VERSION
CITY OF PRINCE GEORGE NOISE CONTROL BYLAW NO. 3848, 1982

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AMENDING BYLAW	EFFECTIVE DATE	AMENDMENTS
4280, 1984	January 16, 1984	(Section 2)
5221, 1988	October 24, 1988	(Section 1)
5396, 1990	February 12, 1990	(Section 2)
8816, 2017	February 6, 2017	(Preamble, Section 1.1, 6, 7)

CITY OF PRINCE GEORGE
BYLAW NO. 3848

Amending Bylaw **A Bylaw of the City of Prince George to regulate noise, nuisance and disturbances within the City.**

Bylaw 8816 **WHEREAS** Section. 8 (3) (h) of the *Community Charter*, S.B.C. 2003, c.26 provides that Council may by bylaw regulate, prohibit or impose requirements in relation to, among others, the protection and enhancement of the well-being of persons or property in relation to nuisances, disturbances and other objectionable situations;

AND WHEREAS Section. 64 of the *Community Charter* provides that the authority under Sections. 8 (3) (h) may be exercised in relation to, among others, disturbances and noise;

NOW, THEREFORE, the Municipal Council of the City of Prince George, in open meeting assembled, **ENACTS AS FOLLOWS:**

1 DEFINITIONS

Animal shall include any form of life endowed with voluntary motion.

Authorized Person shall include the following:
 a) A Member of the R.C.M.P.
 b) A Bylaw Enforcement Officer.
 c) A Special Constable.
 d) An Auxiliary Constable.
 e) An **Animal** Control Officer.

City means the **City** of Prince George.

Council means the Municipal **Council** of the **City** of Prince George.

Permit shall be a **Permit** as in Schedule "A".

Permit Application shall be as in Schedule "B".

Person shall include any corporation, partnership or party and the heirs, executors, administrators or other legal representatives of such **Person**, to whom the context can apply according to law and also includes the owner, his agent or the occupier of or the holder or a purchaser's interest in any agreement for sale of any real or personal **property** or premises within the **City**.

Property shall include real **Property** and includes land together with all improvements which have been so affixed to the land to make them in fact and in law a part thereof, and shall include a highway as determined in the Motor Vehicle Act.

Utility shall include water, sewer, electrical, telephone, cable service, etc.

2 GENERAL REGULATIONS

- (i) No **Person** shall make or cause, or allow or **Permit** to be made or caused, any **Noise** in or on any **Property** which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of any **Person** or **Persons** in the neighbourhood or vicinity.
 - (ii) No **Person** who is the owner or occupier or tenant of **Property** shall use such **Property** or any part thereof or allow or **Permit** such **Property** or any part thereof to be used in such a manner 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.
- Bylaw 4280**
- (iii) No **Person** shall play or operate or allow or **Permit** or cause to be played or operated any radio, tape recorder, audio playback machine, stereophonic equipment or other instrument or any apparatus for the production or amplification of sound in or on private premises, or in or on any public place in such a manner as 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.
 - (iv) No **Person** shall own, possess, keep or harbor any dog which by its repeated barking disturbs or tends to disturb the quiet, peace, rest or tranquility of any **Person** or **Persons** in the neighbourhood or vicinity.
 - (v) No **Person** shall own, possess, keep or harbor any **Animal** or bird which by its cries disturbs or tend to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of any **Person** or **Persons** in the vicinity.
 - (vi) No hawker, huckster, peddler, news vendor or other **Person** shall by his intermittent or reiterated cries disturb or tend to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any **Person** or **Persons** in the vicinity.
 - (vii) No **Person** shall use or operate a public address system or a megaphone or other thing or device emitting or amplifying Noise in the **City** without first having obtained a **Permit** from the **City**.
 - (viii) No **Person** shall operate a motor vehicle, snow vehicle, motorcycle, motorboat, or dune buggy which makes or causes Noise which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any **Person** or **Persons** in the neighbourhood or vicinity.
 - (ix) No **Person** shall allow or **Permit** or take part in or be part of any charivaries or other similar disturbances of the peace.
 - (x) No **Person** shall commit or abet the committing of any nuisance.
 - (xi) No **Person** being the owner, occupier or tenant of **Property** shall allow or **Permit** any nuisance on that **Property** or emanating from that **Property** to remain unabated.

(xii) No **Person** being the owner, occupier or tenant of **Property** shall allow or **Permit** or be a party to vice, drunkenness, profane swearing or indecent, obscene blasphemous or grossly insulting language or other immorality or indecency which disturbs or tends to disturb the quiet, peace, rest or tranquility of the neighbourhood or of Persons in the vicinity.

Bylaw 5396

(xiii) No **Person** shall operate or **Permit** to be operated or suffer to be operated any radio receiving set, television receiving set, phonograph, loudspeaker or other machine or device for the producing or reproducing of sound, magnetically, electronically or otherwise, which is within a motor vehicle, in a manner that is liable to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of a **Person** in the vicinity.

3 EXCEPTIONS

1) General

Nothing in this Bylaw shall preclude:

- (i) The operation of emergency equipment or any emergency vehicle by an **Authorized Person**; or
- (ii) Any act of maintenance or repair being carried out by employees or contractors of the **City**, the Ministry of Highways or any public or private **Utility**; or
- (iii) Any repairs to **Property** of an emergency nature; or
- (iv) Snow removal or dust clearing operations, provided that in the case of private parking lots such actions are commenced as soon as is practicable after the close of business for the day; or
- (v) Any maintenance or repairs or construction to **Property** by the owner, occupier or agent of said **Property** between the hours of 7:00 a.m. and 10:00 p.m. of the same day; or
- (vi) The operation of a public transportation system; or
- (vii) The operation of a public address system required under a building or fire code; or
- (viii) Any **Person** from functioning within the limits of a **Permit** issued under the Fire or Traffic Bylaws of the **City**; or
- (ix) Construction or industrial work between the hours of 6:00 a.m. and 10:00 p.m. of the same day.

2) Permit

- 2.1 A **Permit** may be issued by the **City Manager**, **City Clerk** or **Bylaw Enforcement Officer**.
- 2.2 Any **Permit** issued pursuant to Section 2.1 shall be in the form prescribed by this Bylaw in Schedule "A".

- 2.3 A **Permit** shall not be issued unless:
- 2.3.1 it is applied for in writing using the form of application prescribed by Schedule "B"; and
 - 2.3.2 any fee prescribed by this Bylaw for the issuance of a **Permit** has been paid; and
 - 2.3.3 it is signed by the **Person** who intends to create or make **Noise** which is otherwise prohibited by this Bylaw; and
 - 2.3.4 the creation of **Noise** is necessarily incidental to legal activity on land within the **City**; and
 - 2.3.5 the creation of **Noise**, whether intermittently or continuously created, is limited to, in total, 48 hours or less duration; and
 - 2.3.6 the **Noise** cannot be muffled by the **Person** creating it at reasonable expense, or, such **Noise** is created for the purpose of displaying wares, fireworks, celebrations or other similar activities; and
 - 2.3.7 the creation of **Noise** cannot be limited to the time span of between 6:00 a.m. and 10:00 p.m. on the same day on any day that it is created.
- 2.4 Any **Permit** issued pursuant to this Bylaw may be revoked by the **Person** who issued it if the information supplied by the applicant to such **Person** for the purpose of seeking the **Permit** is inaccurate or untrue.
- 2.5 A **Person** who operates a business, which is duly licensed to operate within the **City**, may apply to the **Council** of the **City** for a **Permit** to create **Noise** which is necessarily incidental to the business activity of such **Person**.
- 2.6 The applicant for a **Permit** described in Section 2.5 shall file with the Clerk of the **City** an application for such **Permit** duly completed and signed by such **Person** in the form prescribed by Schedule "B" to this By-Law, and the Clerk shall place such application form before **Council** of the **City** as soon as is reasonably possible for the purpose of allowing the applicant to have **Council** determine if such a **Permit** shall be issued.
- 2.7 A **Permit** issued by **Council** of the **City** may be revoked by the **Council** of the **City** if the information supplied by the applicant to **Council** is untrue or inaccurate, or, if the **Council** should subsequently determine that the **Permit** authorizing the creation of **Noise** should be revoked because it unduly disturbs the neighbourhood in which such business of the applicant is carried on.

4 ENFORCEMENT

- (i) Where an **Authorized Person** has reasonable and probable grounds to believe and does believe that a nuisance or disturbance involving an **Animal** has been committed and remains unabated or continues, the **Authorized Person** may cause the **Animal** to be taken and stored in the **City Animal Pound** or other suitable location and all costs incurred with respect to the taking and storing of such **Animal** shall be paid by the owner or harbinger of the **Animal**.
- (ii) Where an **Authorized Person** has reasonable and probable grounds to believe and does believe that a nuisance or disturbance is emanating or originating from a motor vehicle, an **Authorized Person** may cause such motor vehicle to be taken and stored until such nuisance or disturbance is abated and the costs associated with and incurred with respect to the removal and storage of such vehicle shall be paid by the registered owner of such vehicle.
- (iii) Where an **Authorized Person** has reasonable and probable grounds to believe and does believe that any thing or device has been used or is being used to cause a nuisance, **Noise** or disturbance in violation of this Bylaw that **Authorized Person** may cause such thing or device to be taken and stored and the costs associated to such action of removal and storage shall be paid by the owner of such thing or device.
- (iv) Where any **Animal**, vehicle, thing or device is impounded in order to prevent the continuation of or to abate any nuisance or disturbance or other violation of this Bylaw, such **Animal**, vehicle, thing or device shall be returned to the owner of it, provided that:
 - 1) The owner shall have applied to the **City** for its return, and
 - 2) It shall not have been designated by an **Authorized Person** to be an exhibit for the purposes of proceedings pursuant to this Bylaw, and
 - 3) The owner shall have paid any and all fees, expenses or costs associated with and incurred by the **City** with respect to the taking and storing of such **Animal**, vehicle, thing or device,

and in such case it shall be returned to the owner of it within seven days from the date of such application.

- (v) Should no application for the return of the **Animal**, vehicle, thing or device be made by the owner within 30 days of the taking thereof, such **Animal**, vehicle, thing or device shall be deemed to be the **Property** of the **City**, and the **City** may sell it, or dispose of it to recover any or all costs or expenses associated with such taking, storing and selling, and any surplus over and above such costs shall be returned to the owner of such **Animal**, vehicle thing or device, providing such owner is known to the **City** and can be contacted within seven days from the date of obtaining of a surplus on sale. Should the **Animal**, vehicle, thing or device taken and stored according to the provisions of this Bylaw be declared an exhibit in proceedings to this Bylaw, the disposition of such **Animal**, vehicle, thing or device shall be at the discretion of the Judge or Court in which such proceedings are taken.

5 RIGHT OF ENTRY

Where an **Authorized Person** has reasonable and probable grounds to believe and does believe that a violation of this Bylaw exists or that abatement procedures are inadequate, that **Authorized Person** may enter upon any **Property** to further an investigation or resolve any violation.

Bylaw 8816 6 OFFENCES AND PENALTIES

6.1 This Bylaw may be enforced,

- a) by an Information laid in accordance with the *Offence Act*;
- b) by means of a ticket under the *Community Charter*;
- c) by Bylaw Notice in accordance with the "*Local Government Bylaw Notice Enforcement Act*"; or
- d) by a combination of the above noted methods in (a), (b) and (c).

6.2 With respect to enforcement further to a ticket issued pursuant to the *Community Charter*, the fines outlined in the "City of Prince George Ticket Information Utilization Bylaw No. 5422, 1990", as amended or replaced from time to time, shall apply.

6.3 With respect to enforcement further to a Bylaw Notice issued pursuant to the *Local Government Bylaw Notice Enforcement Act*, the fines outlined in Schedule "B" of the "City of Prince George Bylaw Notice Enforcement Bylaw No. 8813, 2016", as amended or replaced from time to time, shall apply.

6.4 Except as otherwise provided in this Bylaw, the "City of Prince George Ticket Information Utilization Bylaw No. 5422, 1990", or the "City of Prince George Bylaw Notice Enforcement Bylaw No. 8813, 2016", and amendments thereto, any 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, carryout or perform any duty or obligation imposed by the Bylaw shall be liable on summary conviction to a fine not exceeding Ten Thousand Dollars (\$10,000.00), the cost of prosecution and any other penalty or order imposed pursuant to the *Community Charter, S.B.C., 2003, c.26* or the *Offence Act, R.S.B.C., 1996, c.338*. Each day that an offence against the Bylaw continues or exists shall be deemed to be a separate and distinct offence.

6.5 Subject to subsection 4 ENFORCEMENT, if the Owner or Recipient of the Notice fails to comply with an order of the Authorized Person issued under Section 6.1 of this Bylaw, the City, by its employees, contractors and agents may take action in accordance with section 17 of the *Community Charter, S.B.C., 2003, c.26* to fulfill the requirements of the order of the Authorized Person and to recover the costs or expenses associated with and incurred by the City in relation to the taking, storage or selling of an animal, vehicle, thing or device.

7 PENALTY SECTION

- (i) 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, or who neglects to do or refrains from doing anything required to be done by 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.

- (ii) Every **Person** who commits an offence against this Bylaw is liable to a fine of not more than \$2,000.00 and not less than \$100.00 for each offence.

8 TRANSITION

Sections 35, 36 and 37 of the Interpretation Act, R.S.B.C. 1979, Chapter 206, shall apply for a period of 12 months with respect to **Noise** offences committed prior to the repeal of the **Noise** provisions of Bylaw No. 3302.

9 REPEAL

Sections 13, 14, and 15 of Bylaw No. 3302 are hereby repealed.

- 10** The Mayor and Clerk are hereby empowered to do all things necessary to give effect to this Bylaw.

- 11** This Bylaw may be cited for all purposes as "**City of Prince George Noise Control Bylaw No. 3848, 1982**".

READ A FIRST TIME THIS THE 5th DAY OF July , 1982.

READ A SECOND TIME THIS THE 5th DAY OF July , 1982.

READ A THIRD TIME THIS THE 5th DAY OF July , 1982.

All Three readings passed by a unanimous decision of Members of **City Council** present and eligible to vote.

RECONSIDERED, FINALLY PASSED AND ADOPTED THIS THE **12th** DAY OF **JULY** , 1982,
BY A **majority** DECISION OF ALL MEMBERS OF CITY COUNCIL PRESENT AND ELIGIBLE TO VOTE.