

**MUNICIPALITY OF CROWSNEST PASS**

**BYLAW NO. 709, 2006**

**A BY-LAW OF THE MUNICIPALITY OF CROWSNEST PASS TO PROHIBIT CERTAIN ACTIVITIES CREATING NOISE AND TO ABATE THE INCIDENCE OF NOISE AND RESTRICT THE HOURS WHEN CERTAIN SOUNDS MAY BE MADE.**

**WHEREAS**, under the provisions of Section 7 of the Municipal Government Act, being Chapter M-26 of the Revised Statutes of Alberta, RSA 2000, as amended, a Council may pass a By-law for municipal purposes respecting the safety, health and welfare of people and the protection of people and property;

**AND WHEREAS** the Traffic Safety Act R.S.A. 2000, c.T-6, as amended, provides that the Council of a Municipality may make by-laws defining what constitutes objectionable Noise, devising a system or method of determining or measuring that Noise, and prohibiting the operation of Motor Vehicles which in any manner make objectionable Noise;

**AND WHEREAS**, the incidence of noise in the Municipality of Crowsnest Pass is such that the Council of the Municipality of Crowsnest Pass deems it expedient that a By-law be made constricting, mitigating and abating activities which give rise to unnecessary noise in the Municipality;

**AND WHEREAS**, the intent of this By-law is that all noise shall be reduced as far as possible compatible with the normal activities of urban life and that unnecessary noise be eliminated;

**NOW THEREFORE**, the Municipal Council of the Municipality of Crowsnest Pass in the Province of Alberta duly assembled, ENACTS AS FOLLOWS:

**SECTION 1 TITLE**

This By-law may be cited as “The Municipality of Crowsnest Pass Noise By-law”.

**SECTION 2 DEFINITIONS**

In this By-law:

"By-law Enforcement Officer" means a By-law Enforcement Officer appointed by the Municipality of Crowsnest Pass pursuant to the Municipal Government Act, R.S.A. 2000 c. M-26, as amended, to enforce the Municipal Bylaws of the Municipality of Crowsnest Pass, and includes a member of the Royal Canadian Mounted Police and, when authorized, a Special Constable.

“CAO or Chief Administrative Officer”  
means the Chief Administrative Officer for the Municipality of Crowsnest Pass

"Construction Equipment" includes a riveting machine, concrete mixer, gravel crusher, steam shovel, trenching machine, dragline, backhoe, air or steam compressor, jack-hammer or pneumatic drill, bulldozer, front-end loader, motor scraper, motor grader or any other tool, device, or machine of a noisy nature.

"Construction Noise" means Noise caused by Construction Equipment.

"Council" means the Council of the Municipality of Crowsnest Pass.

"Development Officer" means a Development Officer, or designate for the Municipality of Crowsnest Pass and whatever subsequent title may be conferred on that officer by Council or Statute.

‘Highway’	means any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestle way or other place, whether publicly or privately owned, any part of which the public is ordinarily entitled or permitted to use for the passage or parking of vehicles, and includes  a) a sidewalk (including the boulevard portion of the sidewalk); b) if a ditch lies adjacent to and parallel with the roadway, the ditch; c) if a highway right-of-way is contained between fences or between a fence and one side of the roadway, all the land between the fences, or all the land between the fence and the edge of the roadway, as the case may be; and d) any further additional but not depletive definition of the term highway as defined in the Traffic Safety Act, as amended
‘Holiday’	means any statutory holiday as defined in The Interpretation Act Chapter I-8 RSA 2000;
‘Hospital Zone’	means an area which is designated as such by signs or other devices,
‘Industrial Zone’	is as defined in the Municipality of Crowsnest Pass Land Use By-law
"Land Use Bylaw"	shall mean the Municipality of Crowsnest Pass Land Use Bylaw No. 632-2004 as amended
‘Municipality’	means the municipal corporation of the Municipality of Crowsnest Pass in the Province of Alberta
"Noise"	means any loud, unusual or unnecessary sound which either annoys or disturbs persons, or which injures, endangers or detracts from the comfort, repose, health, peace or safety of persons within the boundary of the Municipality of Crowsnest Pass.
‘Peace Officer’	means a member of the Royal Canadian Mounted Police or a By-law Enforcement Officer;
‘Residential Building’	means a building which is constructed as a dwelling for human beings and includes a hotel or motel;
‘Residential Zone’	is as defined in the Municipality of Crowsnest Pass Land Use By-law;
‘Roadway’	means that part of a highway intended for use by vehicular traffic
‘Signaling Device’	means a horn, gong, bell, claxon, or other device producing an audible sound for the purpose of drawing people’s attention to an approaching vehicle, including a bicycle;
‘Vehicle’ or ‘Motor Vehicle’	refers to such vehicles as defined in the Traffic Safety Act Chapter T-6 RSA 2000 as amended.
‘Weekday’	means any other day other than a Sunday or Holiday;

### **SECTION 3 GENERAL PROVISIONS**

- 3.1 No person shall make, cause, continue to cause, or allow to be made any loud, unnecessary or unusual noise which either annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons within the corporate boundaries of the Municipality.

**MUNICIPALITY OF CROWSNEST PASS**  
**BYLAW NO. 709, 2006**  
**PAGE 3 OF 7**

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- 3.2 No person shall allow property belonging to him or under his control to be used so that there occurs thereon or emanates from a loud, unnecessary or unusual noise which either annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons within the corporate boundaries of the Municipality .
- 3.3 Where an area is designated by signs or by other means as being a hospital zone no person shall
- a) carry on any noise making activity in the area unless it cannot be carried on in some other area; or
  - b) make or continue any noise or loud sound within the area.
- 3.4 Where an activity which is not specifically prohibited or restricted by any provision of any legislation or regulations of Canada or of the Province of Alberta or by any provision of this By-law involves creating or making a sound which is or may be or becomes, or creates or produces or may create or produce a disturbance or annoyance to other people or a danger to the comfort, repose, health, peace or safety of others, a person engaging in such a manner is to create as little of such sound as practicable under the circumstances.
- 3.5 No person shall operate a power or hand lawn mower in any area designated as a Residential Zone between the hours of
- a) Ten o'clock in the evening and seven o'clock of the next forenoon on weekdays; or
  - b) Ten o'clock in the evening and eight o'clock in the next forenoon of the following day which is a Sunday or holiday.
- 3.6 No person shall operate a snow clearing device powered by an engine of any type during the hours as specified by section 3.5 herein.
- 3.7 Notwithstanding subsection 3.6 and 3.7, a person may operate a snow clearing device powered by an engine for the purpose of commercial and non-commercial removal of snow and ice from streets, parking lots and sidewalks during the 48 hour period following a snowfall, rain or freezing rain, subject to the right of the Chief Administrative Officer to withdraw this relaxation on a site specific basis.
- 3.8 No person shall carry on the construction of any type of structure which involves hammering, sawing or the use of any machine or equipment capable of creating a sound which may be heard beyond the boundaries of the site during the hours as specified by section 3.5 herein.
- 3.9 No person shall operate or allow to be operated any tool, device or machine of a noisy nature so as to create noise, confusion or disturbance which may be heard in a residential building during the hours as specified by subsection section 3.5 herein.
- 3.10 If a person operates a vehicle of any type on a roadway in a Residential Zone at any time of the day or night in such a way as to unduly disturb the residents in the Residential Zone in which he is operating the vehicle he shall be guilty of an offence under this By-law.
- 3.11 Where a vehicle is allowed by the provisions of the Traffic Safety Act Chapter T-6 RSA 2000 as amended, to be equipped with a siren, the driver thereof should only use the siren at such times as is allowed and at such times shall only use the siren when it is necessary for the purpose for which the siren is allowed to be used.
- 3.12 Nothing in this By-law shall apply to a work on a roadway or Provincial highway or a public utility carried on by:
- a) a Municipality department, or a contractor hired by the Municipality;
  - b) a Provincial representative while performing construction, maintenance or work upon public highways;
  - c) a representative of any provider of a public utility while performing construction, maintenance or work on a public utility, including telephone systems, electric systems, and natural gas systems.

**SECTION 4 - PERMITS AND NON-APPLICATION OF BY-LAW**

- 4.1 The Chief Administrative Officer, or designate, may, upon written request, issue permission in writing to a Person for the purpose of suspending the provisions of this By-law, and the written permission shall specify the dates and hours during which Noise may occur (the "Permit").
- 4.2 The Chief Administrative Officer may refuse to issue a Permit, or impose any term or condition upon a Permit.
- 4.3 The applicants for a Permit may appeal either:
- (a) the refusal of an issuance of a Permit; or
  - (b) a condition(s) of the Permit; to Council within thirty (30) days of the receipt of the refusal, or the receipt of the issuance of the Permit.
- 4.4 On appeal under either Clause 4.3(a) or 4.3(b), Council may refuse a Permit, confirm a Permit, issue a Permit upon any terms or conditions, or vary a term(s) of condition(s) of a Permit. The decision of Council is final.
- 4.5 Any such Permit issued shall be produced to a Municipal By-law Enforcement Officer upon demand.
- 4.6 Persons owning or controlling Construction Equipment, and Persons owning or controlling land on which Construction Equipment is being operated shall be exempt from the provisions of this By-law if:
- (a) the Noise is generated pursuant to work done in the normal manner to that industry;
  - (b) the Noise is generated between the hours of 10:00 p.m. and 7:00 a.m. of any day excluding Holidays and between the hours of 10:00 p.m. and 8:00 a.m. on Holidays; and
  - (c) all necessary federal, provincial and municipal permits, licenses and approvals have been obtained and the work is not contrary to any federal, provincial or municipal laws or regulations.
- 4.7 This By-law does not apply:
- (1) to work carried on by the Municipality of Crowsnest Pass or its agents, contractors, servants or employees, acting within the scope of their agency, contract, or employment, as the case may be; or
  - (2) to the performance of any industrial activity by any Person on land where:
    - (A).1 the industrial activity is:
      - (i) a permitted use within Districts and under the Land Use Bylaw;
      - (ii) is an approved discretionary use within Districts and under the Land Use Bylaw; or
      - (iii) is a non-conforming use as defined in the Municipal Government Act; the Noise is generated pursuant to work done in the normal manner to that end; and
      - (iv) the work does not otherwise contravene any federal, provincial or municipal laws or regulations.
  - (3) to Persons using domestic equipment including lawnmowers, snow blowers, garden tillers and built-in vacuum cleaners which are vented to the outside, and Persons owning or controlling property upon which such equipment is used if:
    - (A) the Noise is of a temporary or intermittent nature;
    - (B) the equipment is properly maintained and operated in a normal manner for that type of equipment; and

- (C) the Noise occurs between the hours of 10:00 p.m. and 7:00 a.m. of any day and between the hours of 10:00 p.m. and 8:00 a.m. on Holidays;
- (D) to Persons using air conditioning and cooling units in either domestic or commercial use if the units are properly maintained and are operated in a normal manner.

## **SECTION 5 PENALTIES**

5.1 Any person who contravenes or disobeys, or refuses or neglects to obey any provision of this By-law by:

- a) doing any act or thing which he is prohibited from doing herein
- b) failing to do any act or thing he is required to do herein

is guilty of an offence and is liable on summary conviction to a penalty not exceeding Five Hundred Dollars (\$500.00) and in the event of failure to pay or the inability to pay any penalty levied to imprisonment for a period of not less than seven (7) days and not exceeding sixty (60) days or until such penalty and costs of committal are paid.

5.2 Where any section of this By-law or Schedule 'A' attached hereto provides for a minimum penalty to be made for contravention of this By-law, the court entering the conviction of the offence shall not levy a penalty less than set out in the provision, and where a provision of this By-law or Schedule 'A' hereto provides for an increased penalty for a second or subsequent offence the penalty to be levied shall not be less than the amount set for such second or subsequent offence.

5.3 Where a Peace Officer believes that a person has contravened any section of this By-law as set out in Schedule 'A', he may serve upon such a person a violation tag in a form prescribed by the Municipality allowing payment of the penalty specified in Schedule 'A', attached to and forming part of this By-Law, for such offence to the Municipality and such payment shall be accepted by the Municipality in lieu of prosecution for the offence.

5.4 If the person upon whom a voluntary payment tag is served fails to pay the required sum within the time specified in the voluntary payment tag, the provisions of this section regarding acceptance of payment in lieu of prosecution do not apply.

5.5 Nothing in this section shall:

- a) prevent a person from exercising his right to defend any charge of committing a breach of any of the sections referred to in Schedule 'A';
- b) prevent a Peace Officer from laying an information or complaint or violation ticket as prescribed by the Provincial Offences Procedure Act, Chapter P-34, in lieu of serving a voluntary payment tag; or
- c) prevent any person from exercising any legal rights such person may have to lay an information or complaint against any person (whether such person has made payment under the provisions of this By-law, or not) for a breach of any of the provisions of this By-law.

## **SECTION 6 SEVERANCE**

6.1 Should any provision of this By-law be invalid, then such invalid provision may be severed and the remaining By-law shall be maintained.

## **SECTION 7 ENACTMENT**

7.1 By-Law 43, 1979 and all amendments thereto are hereby repealed.

**MUNICIPALITY OF CROWSNEST PASS  
BYLAW NO. 709, 2006  
PAGE 6 OF 7**

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72. This By-Law shall come into full force and effect upon the date of the passing of the third and final reading.

Read a first time this 17<sup>th</sup> day of October, 2006.

CARRIED UNANIMOUSLY

Read a second time this 21<sup>st</sup> day of November, 2006.

CARRIED

Read a third time and finally passed this 21<sup>st</sup> day of November 2006.

CARRIED

JOHN IRWIN

Mayor

**ORIGINAL SIGNED**

GORDON O. LUNDY

Chief Administrative Officer

**SCHEDULE 'A'**

**PENALTIES**

Voluntary payment which may be accepted in lieu of prosecution for a contravention of any of the sections set below shall be that sum set out opposite the section number.

<u>SECTION SPECIFIED</u>		<u>SUM FOR VOLUNTARY PAYMENT</u>
3.1 to 3.10, all sections included	First Offence	\$100.00
3.1 to 3.10, all sections included	Second Offence	\$250.00
3.1 to 3.10, all sections included	Additional Offences	Court Appearance