

BY-LAW #315-06

BEING A BY-LAW OF THE TOWN OF COALHURST, IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF PROHIBITING, ELIMINATING OR ABATING NOISE;

PURSUANT to the provisions of the Municipal Government Act, R.S.A. 2000, Chapter M-26 and amendments thereto;

WHEREAS the incidence of noise in the Town of Coalhurst is such that the Council of the Town of Coalhurst deems it expedient that a By-Law be made restricting, mitigating and abating activities that give rise to unnecessary noise in the Town;

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

The Council of the Town of Coalhurst, in the Province of Alberta, duly assembled, **HEREBY ENACTS AS FOLLOWS:**

1. This By-Law may be cited as the "Noise Control By-Law".

DEFINITIONS

2.
 - a. **"Chief Administrative Officer"** the person appointed by Town Council to this position, herein referred to as CAO.
 - b. **"Industrial Zone"** includes a zone defined as Industrial (I) in the Land Use By-Law;
 - c. **"Land Use By-Law"** means the Land Use By-Law of the Town of Coalhurst, as amended from time to time.
 - d. **"Night-time"** means the period beginning at 10:00 P.M. and ending the following day at 7:00 A.M., with the exception of Sunday and statutory holidays where night-time will end at 9:00 a.m.
 - e. **"Peace Officer"** means a member of the Royal Canadian Mounted Police, a municipal Police Officer, By-Law Enforcement Officer, Police Constable, Bailiff, Special Constable or other person employed for the prevention of disorder and maintenance of the public peace;
 - f. **"Person"** includes Her Majesty and public bodies, bodies corporate, companies, partnerships, firms, societies, an individual;

- g. **"Property"** means real property and includes land, together with all improvements that have been so affixed to the land as to make them in fact and in law a part thereof;
- h. **"Residential Building"** means a building that is constructed as a dwelling for human beings and includes a hotel;
- i. **"Residential Zone"** includes a zone defined as residential (R, LLR, RMH) in the Land Use By-Law;
- j. **"Signalling device"** means a horn, gong, bell, klaxon or other device producing an audible sound for the purpose of drawing a person's attention to an approaching vehicle, including a bicycle;
- k. **"Town"** means the Town of Coalhurst or the area within the corporate limits of the Town of Coalhurst, as the context may require;
- l. **"Violation Ticket"** means where a Peace Officer or other authorized official of the Town of Coalhurst believes that any person has committed a breach of any of the Sections of this By-Law, they may cause a violation ticket to be served upon such person pursuant to Part 2 of the Provincial Offences Procedure Act, Alberta.
- m. **"Voluntary Penalty"** means a penalty specified in this By-Law for a contravention of a provision of this By-Law which amount may be paid by a person to whom a Violation Ticket has been issued.

GENERAL PROHIBITION

- 3(a) Except to the extent allowed under this By-Law, no person shall make, continue to make or cause or allow to be made or continued any loud, unnecessary or unusual noise or any noise which annoys, disturbs, injures, endangers, or detracts from the comfort, repose, health, peace or safety of other persons within the limits of the Town.
- (b) Where an activity which is not specifically prohibited or restricted by any legislation of Canada or the Province of Alberta or by this By-Law involves making a sound which:
 - i Is or may be or may become; or
 - ii 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 engaged in that activity shall do so in a manner creating as little of such sound as practicable under the circumstances.

FURTHER PROHIBITIONS

- 4(a) A person must not operate:
- i. a motorized garden tool;
 - ii. a power tool outside any building or structure;
 - iii. a model aircraft driven by an internal combustion engine of any kind;
or
 - iv. a snow clearing device powered by an engine of any kind;
- within 150 meters of a Residential Zone during the night-time.
- (b) A person who owns, occupies or controls a Truck-Tractor or Tractor-trailer must not at any time allow it to remain running for longer than 20 minutes when it is stationary in a Residential Zone or within 150 meters of a residential building.
- (c) A person must not use a signaling device to promote or advertise the sale of ice cream or any other foodstuffs in a Residential Zone during night-time.
5. No person shall operate an outdoor speaker system on a parcel where a property line of the parcel is within a Residential Zone or within 150 meters of a residential building during the period beginning at 11:00 p.m. and ending at 9:00 a.m. the following day.

MOTOR VEHICLE NOISES

- 6(a) The failure of a person to comply within the Town with the following provisions of the Traffic Safety Act, R.S.A. 2000, c. T-6:
- i The prohibition against the use of signalling devices on motor vehicles, motorcycles, or bicycles so as to make more noise than is reasonably necessary for the purpose of giving notice or warning to other persons on the highway;
 - ii The restrictions on the type or use of mufflers and similar equipment on motor vehicles;
 - iii The prohibition against equipping a vehicle other than those specified with a siren;
- constitutes a violation of this By-Law in addition to and not in substitution for the offence under the Traffic Safety Act, R.S.A. 2000, c. T-6.
- (b) Where a person is responsible for a vehicle of any type in a Residential Zone, whether it be public or private property, at any time in such a way

as to allow a noise that unduly disturb the residents of that street, he is guilty of an offence under this By-Law in addition to and not in substitution for any offence of which he may be guilty the Traffic Safety Act, R.S.A. 2000, c. T-6.

- (c) Subsection (b) does not apply to work on a Town street or on a public utility carried on by:
 - i A Town department;
 - ii A utility company;
 - iii A contractor working for the Town, or for a utility company.

- (d) Where a vehicle is equipped with a siren under the Traffic Safety Act, R.S.A. 2000, c. T-6, the driver thereof shall only use the siren:
 - i when the vehicle is proceeding in response to an emergency call; or
 - ii at any other time permitted under the Traffic Safety Act, R.S.A. 2000, c. T-6; and

- (e) Subsection (d) does not apply to the use of a siren on a vehicle operated by a member of the Royal Canadian Mounted Police, Municipal Police Force, an Inspector of the Inspection Service Branch of the Department of Attorney General or a Special Constable.

COMMERCIAL AND INDUSTRIAL NOISES

- 7. Notwithstanding any other provision of this By-Law, where an open area is provided for parking of patrons in connection with the operation of a retail store or a group of retail stores, the owner or person in charge of the parking area, after having obtained written permission from the CAO and making no more noise than is reasonably necessary in connection therewith, may use a machine for clearing snow or debris from that open area during such hours as is necessary or expedient to keep that area clear of snow and debris.

- 8. No person shall advertise any event or merchandise by ringing bells, shouting, playing any type of musical or noise making instrument or by any other audible means in any part of the Town except as is approved by CAO.

- 9(a) Notwithstanding any other provision of this By-Law and whether or not the resulting noise may be heard in an adjoining area which is zoned other than as a Commercial or Industrial Zone, nothing in this By-Law shall prevent the continual operation or carrying on of an activity during some or any of the hours between seven o'clock in the forenoon and ten o'clock in the evening in any area which is classed as a Commercial or Industrial Zone in the Land Use By-Law where the activity is one which:

- i is permitted in the zone in which it is carried on or is a conditional use for which the required permission has been given; or
 - ii is a non-conforming use and as the same is defined in the Land Use By-Law for the zone in which the use is being carried on.
- (b) In the operation or carrying on of an activity in a zone in which it would be curtailed or restricted but for subsection (a) the person operating or carrying on that activity shall make no more noise than is necessary in the normal method of performing or carrying on that activity.

CONSTRUCTION NOISES

10(a) No person shall carry on the construction of any type of structure which involves hammering, sawing or the use of any machines, tools or equipment capable of creating a sound which may be heard beyond the boundaries of the site on which the activity is being carried on during the “Night-time”.

(b) Subsection (a) does not apply to any work carried on by the Town or by a contractor carrying out emergency work on the instructions of the Town.

POWERS OF A PEACE OFFICER

11. The powers of a peace officer: where a peace officer has reasonable and probable grounds to believe a violation of the By-Law exists, may enter with a warrant any dwelling house and may seize any noise making articles and items he believes may have been used in the commission of any violation of this By-Law.

EXEMPTIONS

12. Nothing herein shall render any person liable to a fine, penalty or punishment for performing work of an emergency nature for the preservation or protection of life, health or property.

13. The CAO may, upon written request issue written permission to a person for the purpose of suspending the provisions of this Bylaw. The Permit shall specify:

- a. the date and times during which the noise may occur,
- b. the location where the noise may occur,
- c. the type of noise that shall be permitted.

14. The CAO may refuse to issue a Permit, or impose any term or condition in the Permit.

15. The applicant for a Permit may appeal either
 - a. the refusal of an issuance of a Permit; or
 - b. the condition(s) of a Permit;

to Town Council within thirty (30) days of the receipt of the refusal, or the receipt of the issuance of the Permit.

16. On appeal under Section 13, Council may:
 - a. refuse a Permit,
 - b. confirm a Permit,
 - c. issue a Permit with any terms or conditions, or
 - d. vary the term(s) or condition(s) of a Permit.

The decision of Town Council is final.

17. Any such Permit issued shall be immediately produced to a Peace Officer upon demand.

PENALTIES

18. A Violation Ticket in the amount of the voluntary penalty may be issued for any breach of this By-Law.
19. Any person who commits a breach of any of the provisions of this By-Law will be liable to a penalty of:
 - a. For the first offence to a voluntary penalty of Two Hundred (\$200.00) Dollars or upon Summary Conviction to a fine of not less than Four Hundred (\$400.00) Dollars and not exceeding Twenty-five Hundred (\$2500.00) Dollars, and in default of payment to a term of imprisonment of not more than six (6) months, or to both.
 - b. For a second offence within a six (6) month period to a voluntary penalty of Four Hundred (\$400.00) Dollars or upon Summary Conviction to a fine of not less than Six Hundred (\$600.00) Dollars and not exceeding Twenty-five Hundred (\$2500.00) Dollars and in default of payment to a term of imprisonment of not more than six (6) months, or to both.
 - c. For a third and subsequent offence within a six (6) month period a summons shall be issued and upon Summary Conviction to a fine of not less than One Thousand (\$1,000.00) Dollars and not exceeding Twenty-five Hundred (\$2500.00) Dollars and in default of payment to a term of imprisonment of not more than six (6) months, or to both.

20. This By-Law hereby rescinds By-Law #290-02 and amendments and comes into affect on its final passing.

READ A FIRST TIME THIS 9TH DAY OF MAY, A.D. 2006
READ A SECOND TIME THIS 9TH DAY OF MAY, A.D. 2006
READ A THIRD TIME AND FINALLY PASSED THIS 9TH DAY OF MAY,
A.D.

MAYOR

CHIEF ADMINISTRATIVE OFFICER