

BY-LAW NO. 722/01

A By-law of Clearwater County, in the Province of Alberta, for the purpose of prohibiting, eliminating, abating or controlling noise in the County in accordance with the Municipal Government Act, Chapter M-26.1, Revised Statutes of Alberta 1994, as amended.

WHEREAS, the Municipal Government Act, Chapter M-26.1, Revised Statutes of Alberta, 1994, and amendments thereto, authorizes the Council to establish By-laws.

NOW, THEREFORE, the Council of the Clearwater County, in the Province of Alberta, duly assembled, enacts as follows:

Section 1 -- Short Title and Application

1.1 This By-law may be cited as “The Noise By-law” and will be referred to herein as “this By-law”.

1.2 This By-law applies to all areas within the Municipality.

Section 2 -- Definitions

1.1 In this By-law, unless the context otherwise requires, the term:

- (a) “Council” means the Council of the Clearwater County, Province of Alberta.
- (b) “Court” means the Provincial Court of Alberta.
- (c) “Municipality” means the Clearwater County, Province of Alberta, or where the context requires, means the area comprised within the boundaries of the Municipality, as it may exist from time to time while this By-law is in force.
- (d) “Peace Officer” means a member of the Royal Canadian Mounted Police, or a Special Constable of the Municipality.

Section 3 -- General Prohibition

3.1 Except to the extent that is allowed by this By-law, no person shall make, shall continue, shall cause or shall allow on lands owned by him or under his control, any loud noise, unnecessary noise or unusual noise whatsoever which either annoys, disturbs, injures, endangers, or detracts from the comfort, repose, health, peace or safety of other persons.

3.2 Determination of what constitutes the terms “loud noise”, “unnecessary noise”, “unusual noise”, or “noise which annoys, disturbs, injures, or endangers or detracts the comfort, repose, health, peace or safety of other persons” is a question of fact to be found by a Court which hears a prosecution of an offence against this By-law.

3.3 Where an activity is authorized by legislation or regulation of Canada or of the Province of Alberta or by any provision of this By-law or any other By-law of the Municipality, and involves the creation of noise, no noise other than is necessary or customary in the normal method of performing or carrying on of that activity shall be produced to unreasonably disturb, annoy, injure, endanger, or detract from the comfort, repose, health, peace or safety of other persons.

Section 4 -- Seizure and Confiscation

4.1 When a Peace Officer has reasonable and probable grounds to believe a violation of this By-law exists, he may enter, without warrant, any dwelling house or other property and therein seize and confiscate as evidence any noise-making devices or items he believes may have been used to violate the provisions of this By-law.

4.2 Any noise-making devices or items seized and confiscated under Subsection 4.1 may be held by the confiscating Peace Officer until the expiry of all judicial processes at which time the said devices and items shall be returned to the rightful owner unless otherwise ordered by a judge.

Section 5 -- Permissible Activities

5.1 Notwithstanding any other provisions of this By-law, nothing in this By-law shall prevent or prohibit the operation or carrying on of an activity or the performing or carrying on thereof during the day or night or any part thereof where the activity is one which is either:

- (a) associated with an emergency response;
- (b) a “deemed approved” use as defined in the Clearwater County Land Use By-law for the district in which the use is being carried on;
- (c) a “permitted” or a “discretionary” use as is defined in the Clearwater County Land Use By-law for the district in which the use is being carried on, for which the required permission has been granted pursuant to such By-law; or,
- (d) an “existing non-conforming use” as defined in the Clearwater County Land Use By-law.

5.2 In the operation or carrying on of an activity cited in Subsection 5.1, the person operating or carrying on that activity shall make no noise other than is necessary or customary in the normal method of performing or carrying on of that activity.

Section 6 – Procedure, Penalties and Prosecution

6.1 A Peace Officer is hereby authorized and empowered to issue a Violation Ticket to any person, whom the Peace Officer has reasonable and probable grounds to believe has contravened this By-law.

6.2 Each Violation Ticket issued by a Peace Officer shall include penalties levied in accordance with Schedule “A” attached to and forming part of this By-law.

6.3 A Violation Ticket shall be served upon an offending person, personally or by mailing it to such person by registered mail.

6.3 The Violation Ticket shall be in a form normally used by Peace Officers in the issuance of notices of offence, and will conform with the Provincial Offences Procedure Act, S.A. 1988, c.P-21.5, as amended, or repealed and replaced from time to time.

6.4 Where a contravention of this By-law is of a continuing nature, further Violation Tickets may be issued by a Peace Officer.

6.5 Where a Violation Ticket is issued pursuant to this By-law, the person to whom the Violation Ticket is issued may, in lieu of being prosecuted for the offence, plead guilty to the offence by mailing or delivering the relevant sections of the Violation Ticket together with a voluntary payment of the amount indicated on the Violation Ticket to the Provincial Court of Alberta as directed on the Violation Ticket.

Section 9 – Transition

Noise By-law # 721/01 is hereby rescinded.

READ A FIRST, SECOND AND WITH THE UNANIMOUS CONSENT OF COUNCIL A THIRD TIME this 13th day of November, A.D., 2001.

REEVE

MUNICIPAL MANAGER

SCHEDULE "A"

Description	Penalty
First Offence	\$200.00
Second Offence if the offence occurs within 30 days of the first offence	\$500.00
Third and Subsequent offence if the offence occurs within 30 days of the previous Offence	\$1,000.00