

BYLAW NO. 1389

A bylaw to regulate noise within the Town of Creston.

WHEREAS the *Community Charter* authorizes the Council of the Town of Creston, by bylaw, to regulate, prohibit and impose requirements for the protection and enhancement of the well-being of its community in relation to nuisances, disturbances and other objectionable situations; **BL#1781**

AND WHEREAS the Council of the Town of Creston deems it necessary to regulate the noise within the Town of Creston;

NOW THEREFORE the Council of the Town of Creston, in open meeting assembled, enacts as follows:

1. CITATION

This Bylaw may be cited for all intents and purposes as "Noise Control Bylaw No. 1389, 1997".

2. DEFINITIONS

Words defined in the Motor Vehicle Act and the Municipal Act of British Columbia when used in this bylaw shall have the same meaning as set out in those Acts, unless otherwise defined herein or the context otherwise requires.

Where the singular is used, it shall also mean the plural, and where the masculine gender is used, it shall also mean the feminine.

"Noise" includes any loud outcry, clamour, shouting or movement, or any sound that is harsh or undesirable.

"Person" includes any individual, company, corporation, owner, partnership, firm, association, society or party.

"Property" means real property and includes land, public or private, other than a Provincial highway, together with all improvements which have been so affixed to the land as to make them in fact and in law a part thereof.

"Bylaw Enforcement Officer" means the person appointed from time to time by Council as the Bylaw Enforcement Officer for the Town of Creston.

"Council" means the Council of the Town of Creston.

"Police Officer" means and includes any constable or person having the powers of a constable and without limiting the foregoing, a member of the Royal Canadian Mounted Police.

3. REGULATIONS

- (a) No person shall make or cause, or permit to be made or caused, any noise in or on a public or private place which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of any person or persons in the neighbourhood or vicinity.

- (b) No person being the owner, tenant or occupier of real property shall allow or permit such real property to be used so 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.
- (c) No person shall play or operate any radio, stereophonic equipment or any instrument or apparatus for the production or amplification of sound either in or on private premises or in any public place in such a manner as to disturb the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or persons in the vicinity.
- (d) No person shall own, keep or harbour any animal or bird, which by its cries disturbs the peace, quiet, rest or tranquillity of the surrounding neighbourhood or the public at large.
- (e) No hawker, huckster, peddler, news vendor, busker or other person shall by his intermittent or reiterated cries disturb the quiet, peace, rest, enjoyment, comfort or convenience of individuals or the public at large.
- (f) No person shall on any day before 07:00 hours (7:00 a.m.) or after 22:00 hours (10:00 p.m.) construct, erect, reconstruct, alter, repair or demolish any building, structure or thing or excavate or fill any land or operate any machinery used for that purpose, in any manner which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in the vicinity. For Sundays and statutory holidays, such activities shall not occur before 09:00 hours (9:00 a.m.) or after 17:00 hours (5:00 p.m.).
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- (g) Where it is impractical to comply with subsection (f) above, the Town Manager or designate may give written approval to carry on the work that is found to be necessary at designated hours. Responsibility for obtaining written approval lies with the person or licensed business wishing to carry out the work.
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- (h) No person shall operate any outdoor public address system except in connection with a parade for which a permit has been obtained from the Town.
- (i) No person shall operate a snow vehicle or motorcycle which makes or causes noise, or any motor vehicle, motorcycle, bus or other vehicle so out of repair or so loaded or so operated as to create loud or unnecessary noise which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of the neighbourhood or of persons in the vicinity.

4. EXCEPTIONS

- (a) The prohibitions set out in this bylaw shall not be applicable to any equipment or vehicle operated by a member of the Police, Fire Department, Ambulance, or Town of Creston forces when responding to an emergency or in the discharge of his duty.
- (b) A person may perform works of an emergency nature for the purpose of protection of life, health or property in contravention of the prohibitions set out in this bylaw, but the onus shall be on the person performing the work to show cause that the work was of an emergency nature and that the minimum level of noise required to complete the repairs was not exceeded.

- (c) Any Town vehicle or equipment engaged in the plowing or removal of snow from a roadway or municipal property; **BL#1781**
- (d) Any commercial vehicle or equipment engaged in the plowing or removal of snow from industrial, commercial or institutional property subject to the following conditions:
 - i. that the contractor has a valid Town of Creston business licence;
 - ii. that the vehicle or equipment is, in the opinion of the Bylaw Enforcement Officer or designate, adequately muffled;
 - iii. that the use of tire chains be restricted unless required by operational conditions;
 - iv. that best practices and latest technologies associated with commercial snow removal operations be utilized; and,
 - v. that operations before 0700 hours (7:00 a.m.) or after 2200 hours (10:00 p.m.) are undertaken only when necessitated due to public safety and operational concerns associated with severe weather conditions.

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5. SPECIFIC AREAS TO BE EXEMPTED

- (a) Properties being used for Church facilities may announce services by the use of bells or chimes.
- (b) Properties being used under the authority of a permit or licence issued by the Province of B.C. may so operate in accordance with the hours specified by the Provincial Ministry which governs such activity.
- (c) That property where the Creston Valley Recreation Centre is located shall be exempt from the prohibitions set out in this bylaw as for activities authorized and permitted to take place on the said property.
- (d) The Millennium Park shall be exempt from the prohibitions set out in this bylaw, for events approved by the Director of Corporate Administration (as defined in the Parks Regulations Bylaw 1600), between the hours of 7:00 a.m. and 10:00 p.m. daily. **BL#1613**

6. VIOLATION AND PENALTY

- (a) Every person who violates a provision of this bylaw, or who consents, allows or permits an act or thing to be done in violation of a provision of this bylaw, or who neglects or refrains from doing anything required by a provision of this bylaw, is guilty of an offence and is liable, upon summary conviction, to a fine not exceeding \$10,000 and not less than \$2,500, and is guilty of a separate offence each day that a violation continues or exists. **BL#1773**
- (b) The Bylaw Enforcement Officer or any Police Officer are hereby empowered to impound as evidence of an offence under the provisions of this bylaw, any radio, stereophonic equipment, or any other apparatus for the production or amplification of sound. **BL#1773**

7. GENERAL

- (a) Noise Control Bylaw 959 and all amendments are hereby repealed.
- (b) This bylaw shall come into full force and effect upon adoption.

READ A FIRST TIME THIS 21st day of April, 1997.

READ A SECOND TIME THIS 21st day of April, 1997.

READ A THIRD TIME THIS 21st day of April, 1997.

RECONSIDERED, PASSED, AND FINALLY ADOPTED THIS 5th day of May, 1997.

"Lela Irvine"
Mayor

"Wm. F. Hutchinson"
Clerk

Schedule "A"

(Deleted)

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INDEX OF AMENDING BYLAWS

Bylaw 1613.....	Adopted February 14, 2005
Bylaw 1773.....	Adopted December 13, 2011
Bylaw 1781.....	Adopted September 11, 2012

NOTE TO USERS

"WHEREAS each bylaw consolidation shall be proof, in the absence of evidence to the contrary, of the original bylaw, of all bylaws amending it and of the fact of passage of the original and all amending bylaws", pursuant to 'Authority to Consolidate Municipal Bylaws No. 1533', which was adopted on the 11th day of June, 2001.