

# REQUEST FOR DIRECTION

## Subject: Community Standards Bylaw 260 – Construction Noise Hours



Presented to: Governance and Finance Committee    Date: July 10, 2023

Submitted by: Rick Williams,  
Development Compliance Officer

Item #: 7.1

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### ADMINISTRATIVE RECOMMENDATION

That the Governance and Finance Committee give direction on proposed changes to the Community Standards Bylaw regarding the allowable hours for construction noise and associated violation penalties.

### BACKGROUND

#### Reason for Report

The Community Standards Bylaw, specifically confusion regarding the allowable hours for construction noise, was identified as a “challenge” by the Planning Department at the 2023 Service Review. Governance and Finance made the following motion at the December 14, 2022 meeting of Service Review:

FIN22-456    **Moved by** Mayor DiManno

That the 2023 Operating Budget and Service Review document for the Development and Building Permits & Inspections service area be amended by adding a new 2023 priority as follows:

- Return to Council with a report on updating the Community Standards Bylaw relating to construction times.

For: (7): Mayor DiManno, Councillor Canning, Councillor Christensen, Councillor Olver, Councillor Pelham, Councillor Pettigrew, and Councillor Ram

**MOTION CARRIED**

#### Summary of Issue

The Community Standards Bylaw (Attachment 1) regulates the allowable hours for construction noise in section 52 which states:

*“Unless written permission from the Town Manager for such operation is first obtained, no person shall carry on the construction of any type of structure which involves hammering, sawing or the use of any machine tools or equipment capable of creating a sound which may be heard beyond the boundaries of the site or within a residential building in which the activity is being carried on outside the hours as outlined in Schedule “B” of this bylaw.”*

Schedule “B” (Attachment 1), which outlines the times of day during which construction noise is permitted, is often questioned by construction contractors seeking clarity. Specifically concerning:

- The Schedule ‘B’ title “Residential Construction” which suggests that Schedule ‘B’ might not apply to Commercial Construction.

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- Allowable Saturday hours of 10AM to 10PM which are out-of-step with neighbouring municipalities and likely community expectations (Attachment 2).
- The omission of ‘Holidays’ in Schedule ‘B’, leaves it unclear if construction noise is allowed on a Holiday.

Note, the Community Standards Bylaw regulations on noise do not apply to any work carried out by the Town of Banff, its contractors or urgent work carried out by a public utility.

Regarding penalties for construction noise violations, the Community Standards Bylaw is limited compared to neighbouring municipalities (Attachment 3). Where most municipalities use increasing fines to address repeat offenders, the Town of Banff Bylaw does not increase penalties for subsequent offences. This is generally regarded as ineffective in achieving compliance with the Bylaw.

Over the last three years, Municipal Enforcement has opened eleven files regarding construction noise and issued four violation penalties.

### Proposed Changes

To clarify the regulations regarding the allowable hours for construction noise, the following updates to Schedule “B” of the Community Standards Bylaw are proposed (Attachment 4):

- Re-title Schedule ‘B’ – “Residential Construction” to Schedule ‘B’ – “Construction Noise: Residential Property Owner” & “Construction Noise: Commercial Operator”.

The category “Construction Noise: Residential Property Owner” is meant to apply to a private property owner performing work on their own property (e.g. building a backyard deck on a Sunday).

The category “Construction Noise: Commercial Operator” applies to any paid commercial contractor working on a commercial or residential project.

- Update Saturday allowable hours for construction noise from 10AM-10PM to 7:30AM-9PM for a commercial operator.

Shifting Saturday hours for construction noise to align closer to those of neighbouring municipalities will allow contractors to work more productive weeks with the goal of completing construction projects in a timely manner.

- Add ‘Holiday’ as a specified day when commercial construction noise is not permitted and define ‘Holiday’ as one of the Alberta general holidays being New Year's Day, Alberta Family Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day.

Clarity on allowable construction noise hours for Holidays will help commercial contractors plan their schedules and set community expectations.

To encourage compliance with the regulations for commercial construction noise:

- Strengthen the violation penalty for commercial operators by adding a second/subsequent offence penalty of \$1000 (Attachment 5).

## Response Options

The Governance and Finance Committee can:

- Direct Administration to return to a future meeting of Council with an amending Bylaw to the Community Standards Bylaw as proposed.
- Direct Administration to return to a future meeting of Council with an amending Bylaw to the Community Standards Bylaw with amendments as directed by the Governance and Finance Committee; or
- Recommend that no changes to the Community Standards Bylaw be made.

## IMPLICATIONS OF DECISION

### Budget

The proposed changes have no budget impacts other than a possible minor increase in fine revenue if violation penalties were increased.

### Internal Resources

The proposed changes have no staff resource implications.

### Communication

The Community Standards Bylaw regulations regarding allowable hours for construction noise are regularly communicated to resident and non-resident construction contractors.

If proposed changes to the Bylaw were being considered, Administration would reach out to construction contractors and residents to inform them of the changes being considered.

### Banff Community Plan

Local Economy

Social

Environmental

### Council Strategic Priorities

Not applicable.

### Legislation/Policy

Not applicable.

### Other

Not applicable.

## ATTACHMENTS

Attachment 1: Town of Banff Bylaw 260 – Community Standards Bylaw

Attachment 2: Construction Noise Hours in Neighbouring Municipalities

Attachment 3: Violation Penalties in Neighbouring Municipalities

Attachment 4: Revised Schedule B

Attachment 5: Revised Schedule “C” Section 52

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Circulation date: June 23, 2023

Submitted By: On Original  
Rick Williams  
Development Compliance Officer

Reviewed By: On Original  
Kelly Gibson, Town Manager

Office Consolidation

## Bylaw 260

### BEING A BYLAW OF THE TOWN OF BANFF, IN THE PROVINCE OF ALBERTA, RESPECTING COMMUNITY STANDARDS

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**WHEREAS** the Municipal Government Act, RSA 2000, Chapter M-26 authorizes a council to pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property;

**AND WHEREAS** the Municipal Government Act, RSA 2000, Chapter M-26 authorizes a council to pass bylaws for municipal purposes respecting nuisances, including unsightly property;

**AND WHEREAS** Council believes the regulation of nuisances through a Community Standards Bylaw would benefit the community as a whole;

**AND WHEREAS** the Municipal Government Act, RSA 2000, Chapter M-26 authorizes a council to pass bylaws for municipal purposes respecting people, activities and things in, on or near a public place or place that is open to the public;

2022.05.24 Bylaw 344

**NOW THEREFORE**, Council of the Town of Banff, in the Province of Alberta, duly assembled, enacts:

#### CITATION

1. This bylaw may be cited as the "Community Standards Bylaw."

#### INTERPRETATION

2. In this bylaw:
  - a) Any reference to a named act is a reference to an Act of the Legislature of Alberta, as amended from time to time.
  - b) Any reference to a Town staff position, department or committee, the reference is deemed to be to the current name that the staff position, department or committee is known by.
  - c) The definitions in Schedule "A" will apply to the corresponding words if the first letter of that word is capitalized in this bylaw.
3. The Owner is ultimately responsible for all activities on a Premises which may constitute prohibitions of this bylaw.
4. Nothing in this bylaw relieves a Person from complying with any federal or provincial law or regulation, other bylaw or any requirement of any lawful permit, order or license.

5. The standards, requirements and prohibitions contained in this bylaw shall apply to all lands within the Town, including but not limited to residential Premises, vacant lots within residential areas; and commercial Premises.

## **UNSIGHTLY, DANGEROUS PREMISES & WILDLIFE ATTRACTANTS**

Amended 2020.10.14 Bylaw 444

6. No Owner or occupier of a Premises shall allow on the Premises, the accumulation or placement of:

Amended 2020.10.14 Bylaw 444

- a) any material that creates unpleasant odors;
- b) any material likely to attract pests;

Amended 2020.10.14 Bylaw 444

- c) animal remains, or animal feces; or
- d) Wildlife Attractant

Added 2020.10.14 Bylaw 444

- 6.1 No owner or occupier of a premises shall cause or allow the placement of a Bird Feeder on the premises or otherwise feed, attempt to feed or permit the feeding of birds on the premises.

Added 2020.10.14 Bylaw 444

7. No Owner or occupier of a Premises shall allow material including, but not limited to the following, to accumulate on the Premises such that the accumulation is visible to a neighbour or from a Highway or Public Space: a) loose garbage;

- b) bottles, cans, boxes or packaging materials;
- c) household furniture or other household goods;
- d) automobile parts;
- e) parts of or disassembled machinery, equipment or appliances; and
- f) yard waste, including grass, tree and hedge cuttings but excluding ground cover.
- g) more than two unregistered vehicles
- h) dilapidated or derelict vehicles.

8. No Owner or occupier of a Premises shall allow on the Premises, the accumulation of building materials, whether new or used, such that they are visible to a neighbour or from a highway or public space, unless that Owner or occupier can establish that a construction or renovation is being carried out on the Premises and that:

- a) the project has begun or the beginning of work is imminent;
- b) the materials found on the Premises relate to the project taking place on the Premises in a quantity reasonable to complete the project; and
- c) the work on the project has not been suspended for a period in excess of one hundred and twenty days.

9. An Owner or occupier of a Premises shall ensure that all building materials stored on a Premises, that are not in contravention of section 8, are stacked or stored in an orderly manner.

10. No Owner or occupier of a Premises shall allow the open or exposed storage on the Premises of any industrial fluid, combustible and flammable liquids including engine oil, brake fluid or antifreeze.

11. No Owner or occupier of a Premises shall allow any appliance to remain on the Premises such that the appliance is visible to a neighbour or from a Highway or a Public Space.

12. No Owner or occupier of a Premises shall allow a refrigerator or freezer to remain on the Premises whether visible to a neighbour or from a Highway or Public Space or not, without first ensuring that:

- a) the hinges and latches, or lid or doors of the unit have been removed, or
- b) the refrigerator remains locked or firmly secured at all times.

13. It shall not be an offence to store a small amount of neatly stacked materials on a Premises for basic property maintenance.

14. No Owner or occupier of a Premises shall allow a Structure or Fence to become designated a safety hazard by an Officer, the Fire Chief, the Town Manager or designate.

15. Every Owner or occupier of a Premises shall ensure that, if any of the following are visible to a neighbour or from a Highway or Public Space, they are maintained in Good Repair: a) Fences and their structural members;

b) Structures and their structural members, including:

- i) foundations and foundation walls; ii) exterior walls and their components; iii) roofs;
- iv) windows and their casings; v) doors and their frames;
- c) protective or decorative finishes of all exterior surfaces of a Structure or Fence; and
- d) exterior stairs, landings, porches, balconies and decks.

16. If a tree or shrub, whether on private property or otherwise, in any way interferes with or endangers the lines, poles, conduits, pipes, sewers or other works of a utility of the Town or of any other public utility, an Officer may direct the Owner, agent, lessee, or occupier of the property on which such tree or shrub stands, to remove or prune the tree or shrub, or take such other steps as an Officer may deem necessary to alleviate the interference with, or danger to, such works.

17. No Owner or occupier of a Premises shall allow an excavation, drain, ditch or other depression in the ground to become or remain a danger to public safety.

18. No Owner or occupier of a Premises shall allow a watercourse, pond or other surface water to become or remain a nuisance or a danger to public safety.

### **NUISANCES ESCAPING PROPERTY**

19. No Owner or occupier of a Premises shall allow a flow of water from a hose or similar device on the Premises to enter the adjacent Premises.

20. An Owner or occupier of a Premise shall direct any rainwater downspout or eaves trough on the Premises towards:

- a) the front of the Premises;
- b) the rear of the Premises;
- c) a side yard which does not abut another Premises; or
- d) a side yard which abuts another Premises only if there is a minimum of six (6) metres of permeable ground between the outfall of the downspout or eaves trough and the adjacent Premises.

21. No Owner or occupier of a Premises shall allow water from a rainwater downspout or eaves trough to enter the adjacent Premises.

22. No Owner or occupier of a Premises shall engage in an activity likely to allow smoke, dust or other airborne matter likely to disturb another Person, to escape the Premises without taking precautions to ensure that the smoke, dust or other airborne matter does not escape the Premises.

23. An Owner or occupier of a Premises shall ensure that articles such as papers, flyers and loose debris are collected and contained on the Premises so that they do not escape onto adjacent or other neighboring properties.

### **WRITTEN COMPLIANCE ORDERS**

24. In making a determination with respect to a contravention of sections 6 through 23 of this bylaw, an Officer, Town Council or a Court may take into consideration any or all of the following factors:

- a) the frequency of the activity;
- b) the intensity and duration of the activity;
- c) the time of day or season;
- d) the nature of the surrounding area;
- e) the effect of the thing or activity on a complainant or complainants; and
- f) the effect of the thing or activity on the surrounding area.

25. If an Officer finds that a Person is in contravention of any section 6 through 23 of this bylaw, an Officer may, by written compliance order, require the Person responsible for the contravention to remedy it if the circumstances so require.

26. An order written pursuant to section 25 may:



- a) Require the Owner of the structure to eliminate the danger to public safety in the matter specified, or remove and demolish the structure and level the site;
- b) Require the Owner of the land that contains the excavation or hole to eliminate the danger to public safety in the manner specified, or fill in the excavation or hole and level the site;
- c) Require the owner of the property that is in an unsightly condition to improve the appearance of the property in the manner specified, or if the property is a structure, to remove or demolish the structure and level the site.

27. An order written pursuant to section 25 must:

- a) indicate the Person to whom it is directed;
- b) identify the property to which the written order relates by municipal address or legal description;
- c) identify the date that it is issued;
- d) identify how the Premises fails to comply with this Bylaw;
- e) identify the specific provisions of the bylaw the Premises contravenes;
- f) identify the nature of the remedial action required to be taken to bring the Premises into compliance;
- g) identify the time within which the remedial action must be completed;
- h) indicate that if the required remedial action is not completed within the time specified, the Town may take whatever action or measures are necessary to remedy the contravention;
- i) indicate that the expenses and costs referred to in this Section may be attached to the tax roll of the property if such costs are not paid by a specified time;

28. An order written pursuant to this section shall be deemed to be sufficiently served for the purposes of this bylaw if:

- a) Served personally on the accused; or
- b) Mailed to the address of the Owner of the Premises concerned; or to the Person concerned.

29. If, in the opinion of an Officer, service of the written order cannot be reasonably affected, or if the Officer believes that the Owner of the Premises is evading service, the Officer may post the written order in a conspicuous place on the Premises to which the written order relates, or on the private dwelling place of the Owner of the Premises; and the written order shall be deemed to be served upon the expiry of three (3) days after the written order is posted.

30. Every Person who fails to comply with a written order issued pursuant to this section within the time set out in the written order commits an offence.

## **FIRE AND CAMPING ON PREMISES**

31. A Person may build, ignite or allow a fire on a Premises in a Fire Place.

32. A Person may build, ignite, or allow a fire on a Premises in a Fire Pit as long as that Person ensures that the fire is contained in a Fire Pit that: a) is constructed of non-combustible material;
- b) has an open flame area that does not exceed 1 metre at its widest point;
  - c) does not have walls which exceed 0.75 metres in height measured from the floor of the Fire Pit to the top of the wall of the Fire Pit excluding any chimney;
  - d) is set upon or built into the bare ground or a non-combustible material such as brick or stone;
  - e) is situated at least 3 metres from any house, garage or similar structure including wooden decks, porches and similar amenity space attached to a structure measured from the part of the Fire Pit which is closest to the structure or amenity space;
  - f) is situated at least 2 metres from any other combustible material measured from the part of the Fire Pit which is closest to the combustible material; and
  - g) is not located directly under any tree or overhanging branches.
33. Notwithstanding section 32(e), a Person may build, ignite or allow a fire in a Portable Fire Receptacle on a wooden deck as long as that Person ensures that:
- a) a non-combustible material such as brick or stone is placed between the Portable Fire Receptacle and the wooden deck; and
  - b) the Portable Fire Receptacle is situated at least 2 metres from any house, garage, similar structure or other combustible material, measured from the part of the receptacle which is closest to the structure or combustible material.
34. Every Person who builds, ignites or allows a fire in a Fire Place, Fire Pit, or Portable Fire Receptacle must ensure that:
- a) a means of extinguishing the fire is kept on hand at all times while the fire is burning;
  - b) the flames from the fire do not exceed 1 metre in height at any time;
  - c) the fire is not left unsupervised at any time; and
  - d) the fire is extinguished completely, leaving only cold ashes, prior to leaving the fire.
35. No Person shall burn, at any time, on any Premises, the following materials:
- a) treated or painted lumber;
  - b) lumber products containing glue or resin;
  - c) wet or unseasoned wood;
  - d) leaves, brush or yard waste;
  - e) garbage;
  - f) rubber, tires or plastic; or
  - g) any animal carcass or part thereof.
36. No Person shall ignite or allow a fire to burn on a Premises during a Fire Ban imposed by either the Town of Banff Fire Chief or by Parks Canada.

37. If, in the opinion of an Officer, or in the sole opinion of a member of the Fire Department, a fire poses a danger or does not comply with the requirements of this bylaw, a member of the Fire Department may extinguish the fire and take any other steps that member of the Fire Department deems necessary to ensure that the fire and site of the fire no longer pose a danger.

37.1 No person shall permit, suffer or allow, property, real or personal, which he owns, occupies or controls to be used for the purpose of camping.

Added 2018.08.15 Bylaw 401

37.2 In making a determination with respect to a contravention of section 37.1 of this bylaw, an Officer, Town Council or a Court may take into consideration any or all of the following factors: a) the frequency of the activity;

- b) the intensity and duration of the activity;
- c) the time of day or season;
- d) the nature of the surrounding area;
- e) the effect of the thing or activity on a complainant or complainants; and
- f) the effect of the thing or activity on the surrounding area.

Added 2018.08.15 Bylaw 401

## **NOISE**

38. Except to the extent it is allowed by this bylaw no person shall make, continue or cause or allow to be made or continued 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 limits of the Town.

39. Except to the extent it is allowed by this bylaw no person shall permit, suffer or allow property, real or personal, which he owns, occupies or controls to be used in a manner such that a loud noise, an unnecessary noise, and unusual noise, or any noise whatsoever which emanates therefrom annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons within the limits of the Town.

40. Where an activity which is not specifically prohibited or restricted by provision of any legislation or regulations of Canada or of the Province of Alberta or by any provision of this bylaw involves creating a sound which is, or may become, 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 an activity shall do so in such a manner as to create as little of such sound as practicable under the circumstances.

41. Where an area is designated by signs or other means as being a Hospital Zone no person shall make or continue any noise or loud, or carry on any noise-making activity within 150 meters in any direction from the boundaries of the hospital site, unless it cannot be carried on in some other area.

42. No person shall load or unload motor trucks in any area designated a Residential District in accordance with Banff Land Use Bylaw 31-3 as amended, and as noted in Schedule "D", between the hours of:

- a) Ten o'clock (10:00) p.m. and seven-thirty (7:30) a.m. in the morning of the following day on Weekdays; or
- b) Ten o'clock (10:00) p.m. and ten (10:00) o'clock a.m. in the morning of the following day which is not a Weekday.

43. Notwithstanding the provisions of section 42, trucks delivering the following items may be unloaded during the hours when such unloading is prohibited by section 42, whether or not the location at which they are unloaded is within a Residential District:

- a) Trucks delivering foodstuffs, fresh fruit and merchandise of a perishable nature;
- b) Trucks delivering milk including trucks delivering milk to the final consumers thereof;
- c) Trucks delivering baked goods; and
- d) Trucks delivering daily or weekly newspapers being delivered to vendors of the same.

44. Notwithstanding any other provision of this bylaw where an open area is provided for parking of patrons in connection with the operation of a retail store, group of stores, Commercial Property or Public Institutional Building, the owner or person in charge of the parking area may, after seven-thirty (7:30) a.m., and until ten (10:00) pm., seven (7) days a week, making no more noise than is reasonably necessary in connection therewith, use a machine for clearing snow and debris in order to allow the use thereof for parking of patrons.

45. Subject to section 46 no Person shall:

- a) Advertise any event or merchandise by ringing bells, calling aloud, playing any type of musical or noise making instrument or by any other audible means (including outside speakers) in any part of the Town, or
- b) Use outside speakers to convey music or any other noise to the public in any part of the Town.
- c) By any method, convey to the public in any part of the Town music or any other noise from inside any premises.

46. The provisions of section 45 shall not be construed to prevent:

- a) The ringing of bells in churches, religious establishments and schools;
- b) The moderate use of musical instruments to call attention to a charitable or non-profit undertaking or event first approved by Council during the Christmas Season or some other time approved by Council;
- c) The sounding of a general or a particular alarm or warning to announce a fire or other emergency or disaster;
- d) The playing of a band, music or operation of a loudspeaker in connection with a parade or special event in which a Street and Public Place Permit has been issued;
- e) The sounding of police whistles, police, fire or ambulance sirens;

f) The sounding of horns or klaxons on vehicles allowed on the streets for the purpose of and to the extent necessary to give signals or warnings to persons and vehicles using the streets.

47. Nothing in this bylaw shall prevent the continual operation of the carrying on of any industrial activity that is a permitted or discretionary use in the Commercial Service District, so designated by the Banff Land Use Bylaw as amended, between the hours of nine o'clock (9:00) p.m. in the evening and ten o'clock (10:00) a.m. of the following day.

48. In the operation or carrying on of an industrial activity in a Land Use District in which it would be curtailed or restricted except for the provision of section 47, the person operating or carrying on the activity shall not make more noise than is necessary in the normal method of performing or carrying on the activity.

49. Any person shall operate a power or hand lawn mower or chain saw or other motorized garden tool in any area designated as a Residential District in accordance with Schedule "B."

50. No person shall operate a model aircraft driven by an internal combustion engine of any description during the hours when the use of a lawn mower is prohibited by section 49 in any Residential District.

51. No person shall operate a snow-clearing device powered by an engine of any type during the hours when the use of a lawn mower is prohibited by section 49.

52. Unless written permission from the Town Manager for such operation is first obtained, no person shall carry on the construction of any type of structure which involves hammering, sawing or the use of any machine tools or equipment capable of creating a sound which may be heard beyond the boundaries of the site or within a residential building in which the activity is being carried on outside the hours as outlined in Schedule "B" of this bylaw.

53. The provisions of sections 38 through 52 do not apply to any work carried on by the Town or by a contractor carrying out the instructions of the Town.

54. Section 52 does not apply to work of an urgent nature carried on by or on behalf of a Public Utility.

## **GRAFFITI AND FLYERS**

55. No person shall create or apply Graffiti.

56. Every Owner or occupier of a Premises shall ensure that Graffiti placed on their Premises is removed, painted over, or otherwise permanently blocked from public view within fourteen days of receiving written notice from an Officer.

57. In a prosecution for an offence under sections 55 and 56, if the defendant seeks to rely on the Graffiti being made with the consent of the Owner of the Premises, the onus of proving the Owner's consent rests with the Person relying on consent.

58. An Owner or occupier of a Premises is responsible for papers and flyers on their Premises regardless of whether they solicited for the delivery of these papers or flyers.

59. No Person shall deposit commercial flyers on a Premises where signs or notices have been posted and are clearly visible at the entrance to a dwelling unit, indicating that such material is not wanted.

60. No Person responsible for the operation of a business engaged in the distribution of commercial flyers shall allow the deposit of their commercial flyers on a Premises where signs or notices have been posted and are clearly visible at the entrance to a dwelling unit, indicating that such material is not wanted.

## **PUBLIC BEHAVIOUR**

61. No person shall urinate or deposit any human waste in any public place or in any place to which the public is allowed access, other than a public washroom.

62. No person shall participate in a fight or any physical confrontation in any public place or any place to which the public is allowed access.

63. No person shall be a member of an assembly of three or more persons in any public place or any place to which the public is allowed access where an Officer has reasonable grounds to believe the assembly will disturb the peace of the neighbourhood, and any such person shall disperse as requested by an Officer.

64. No person shall conduct himself or behave in a manner that unreasonably disturbs other persons in the Town or unreasonably interferes with their enjoyment of the Town.

## **OPEN DOORS**

2022.05.24 Bylaw 344

65. No Owner or Occupier of a Non-Residential Premises shall allow a door permitting entrance or exit from a building forming part of the Premises to the outdoors to be held, secured, or propped open between the Tuesday after Thanksgiving Day and until the last Friday in April except when temperatures rise above +10°C, as noted by the Environment Canada Banff CS Weather Station.

2022.05.24 Bylaw 344

- 65.1 The provisions of section 65 shall not be construed to prevent:
- a) Persons from entering or exiting a building forming part of a Premises through a door in the normal course;

- b) A door into a building forming part of a Premises being held open by one Person to enable another Person or Persons ease of entrance or exit to a building forming part of a Premises;
- c) A door into a building forming part of a Premises which is equipped with a handicapped control from being used in the normal course to enable entrance or exit to a building forming part of a Premises;
- d) Persons from holding, securing or propping a door open for the purpose of allowing Persons to exit a building forming part of a Premises during an emergency;
- e) Persons from holding, securing or propping a door open for the purpose of allowing deliveries to a building forming part of a Premises, while the delivery is taking place; and
- f) Persons from holding, securing or propping a door open for the purpose of allowing construction and construction related activities on the Premises, while such construction is taking place.

2022.05.24 Bylaw 344

## **VIOLATIONS AND ENFORCEMENT**

66. The Medical Officer of Health, the Town Manager, the Fire Chief, or a Community Peace Officer are hereby authorized to enter into any Premises between the hours of eight o'clock (8:00) a.m. in the morning and five o'clock (5:00) p.m. in the afternoon of any weekday, after giving reasonable notice to the owner or occupier of the Premises to be inspected, to inspect for conditions that may constitute a Nuisance or contravene or fail to comply with the provisions of this bylaw.

Renumbered 2022.05.24 Bylaw 344

67. Any Person who contravenes the provisions of this bylaw is guilty of an offence and is liable for the penalty set out in Schedule "C", or if no penalty is specific in Schedule "C" for the particular offence, for the penalty in accordance with section 74 of this bylaw.

Renumbered 2022.05.24 Bylaw 344

68. When a Person is alleged to have contravened any provision of this bylaw, an Officer or a Community Peace Officer may issue a Violation Ticket pursuant to the Provincial Offences Procedure Act R. S. A. 2000 c. P-24.

Renumbered 2022.05.24 Bylaw 344

69. Where there is a specified penalty listed for an offence in Schedule "C" to this bylaw, that amount is the specified penalty for the offence.

Renumbered 2022.05.24 Bylaw 344

70. In lieu of prosecution, the Person named in the Violation Ticket may elect to voluntarily make payment to the Town of the penalty amount specified in the Violation Ticket.

Renumbered 2022.05.24 Bylaw 344

71. If the payment specified in the Violation Ticket is not paid in accordance with the terms of the ticket and in the time required by the ticket, a prosecution may be commenced for the alleged contravention of this bylaw.

Renumbered 2022.05.24 Bylaw 344

72. Upon the failure by any Person to comply with the provisions of this bylaw, the Town may proceed in accordance with the Municipal Government Act and perform any corrective measures required. All costs incurred may be recovered from the Person specified in the Violation Ticket and shall be deemed a debt due to the Town by the Person specified in the Violation Ticket. Debts due may be charged against the property concerned as a special lien to be recovered in like manner as property taxes.

Renumbered 2022.05.24 Bylaw 344

73. If, in the opinion of the Town Manager, a contravention of this bylaw requires immediate action, the Town may perform any work necessary to address the contravention of this bylaw without prior notice and all costs incurred by the Town will be payable by the Person alleged to have contravened this bylaw.

Renumbered 2022.05.24 Bylaw 344

74. Any items removed pursuant to sections 71 and 72, if in the opinion of the Town Manager to be of value, will be removed to a place of safekeeping and will:

- a) Be subject to a daily fee for storage costs; and
- b) If unclaimed within ninety (90) days of removal, will be sold or disposed of at the discretion of the Town.

75. Except as otherwise provided in this bylaw, a Person who is guilty of an offence under this bylaw for which a penalty is not otherwise provided, upon summary conviction before a court of competent jurisdiction, shall be liable to a fine of not less than One Hundred (\$100.00) Dollars and not more than Two Thousand Five Hundred Dollars (\$2,500.00) or in the event of non-payment of the fine, imprisonment for a period not exceeding ninety (90) days unless such fine is sooner paid.

Renumbered 2022.05.24 Bylaw 344

76. Notwithstanding Section 74, any Owner, agent, lessee, or occupier of any land or Premises within the Town not complying with section 56 of this bylaw within fourteen (14) days of receiving a written notice from a Community Peace Officer, the Town may remove, paint over or otherwise block from public view any Graffiti and the cost thereof shall be paid to the Town upon demand and failing payment such cost shall be charged against the property as a special assessment to be recovered in like manner as other taxes. In addition, any Owner, agent, lessee or occupier of any land or Premises within the Town who fails to comply with section 56 of this bylaw shall be liable for a fine of Seventy-Five Dollars (\$75.00).

Renumbered 2022.05.24 Bylaw 344

77. Any Person who creates or applies Graffiti shall be issued a summons to appear in Provincial Court and shall upon conviction thereof be liable to a fine of not less than Two Hundred and Fifty dollars (\$250.00) and not exceeding Five Thousand Dollars (\$5,000.00) exclusive of costs or to imprisonment, in the nearest common jail, for any period not exceeding sixty (60) days, in case of non-payment of fines and costs, unless the fine and costs including the costs of committal are sooner paid.

Renumbered 2022.05.24 Bylaw 344



78. The imposition of a fine either by issuance of a Violation Ticket or Summary Conviction in court shall not relieve any Person so fined of any costs incurred in having work performed by the Town where authorized by this bylaw.

Renumbered 2022.05.24 Bylaw 344

79. Wherever Council, the Medical Officer of Health, the Town Manager, the Fire Chief, a Community Peace Officer directs that an Owner, agent, lessee, occupier or other Person shall do any matter or thing required by this bylaw, then in default of it being done, the Owner, agent, lessee, occupier, or other Person, or any or all of them shall be liable to prosecution, and it shall be no defense for any Owner, agent, lessee, occupier or other Person so prosecuted to allege that any other Person is responsible for such default.

Renumbered 2022.05.24 Bylaw 344

## APPEALS

80. A Person who receives a written order pursuant to this Bylaw may, by written notice, request Council to review the order within 14 days after the date the order is received.

Renumbered 2022.05.24 Bylaw 344

81. After reviewing the order, Council may confirm, vary, substitute or cancel the order.

Renumbered 2022.05.24 Bylaw 344

## ENACTMENT/TRANSITION

82. If any clause in this bylaw is found to be invalid, it shall be severed from the remainder of the Bylaw and shall not invalidate the whole bylaw.

Renumbered 2022.05.24 Bylaw 344

83. Schedules “A”, “B” “C” and “D” form part of this bylaw.

Renumbered 2022.05.24 Bylaw 344

84. Nuisance Bylaw 42-2 is hereby repealed upon this bylaw coming into effect.

Renumbered 2022.05.24 Bylaw 344

85. Noise Bylaw 32-3 is hereby repealed upon this bylaw coming into effect.

Renumbered 2022.05.24 Bylaw 344

86. This bylaw comes into force when it receives third reading and is signed by the Mayor and the Town Manager or designates.

Renumbered 2022.05.24 Bylaw 344

Read a first time this 10<sup>th</sup> day of December, 2007.

Read a second time this 14<sup>th</sup> day of January, 2008.

Read a third time this 28<sup>th</sup> day of January, 2008.

Approved on behalf of the Town of Banff:

On Original

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John Stutz  
Mayor

January 30, 2008

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Date

On Original

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Robert Earl  
Town Manager

January 30, 2008

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Date

## SCHEDULE “A” – Definitions

1. **Birdfeeder** means any type of receptacle containing bird feed, seeds suet nectar or any other Wildlife Attractant.

Added 2020.10.14 Bylaw 444

2. **Camp** or **Camping** means sleeping overnight or any part thereof, in the open air, a vehicle, tent, or any other structure.

Added 2018.08.15 Bylaw 401

3. **Community Peace Officer** means the individual that holds that position at the Town of Banff at any given time and includes any person authorized to act for and in the name of that individual.

4. **Council** means the mayor and councillors of the Town of Banff.

5. **Good Repair** means a condition where something is free from:

- a) significant damage;
- b) peeling surfaces;
- c) broken, missing or fallen parts;
- d) rot or other significant deterioration;
- e) openings which are not secured against trespassers or infiltration or air and precipitation; or
- f) other visual evidence of a lack of general maintenance.

6. **Fence** includes a privately built fence and a developer-built community-screening fence.

7. **Fire Chief** means the individual who holds that position at the Town of Banff at any given time and includes any person authorized to act for and in the name of that individual.

8. **Fire Pit** includes a permanently affixed outdoor fire receptacle.

9. **Fire Place** means an enclosed and permanently affixed outdoor fire receptacle which incorporates a permanently affixed chimney or flue, and is constructed of brick, rock or other masonry.

10. **Graffiti** means words, figures, letters or drawings scribbled, scratched or sprayed on a surface with or without the consent of the Owner of the Premises on which they are placed.

11. **Medical Officer of Health** shall mean the individual that holds that position for Calgary Health Region at any given time and includes any person authorized to act for and in the name of that individual.

12. **Municipality** means the Town of Banff.

13. **Town Manager** means a person appointed as Chief Administrative Officer by Council.

14. **Nuisance** shall mean s any activity or thing which arises from unreasonable, unwarranted or unlawful use by a person of his own property, so as to produce a material annoyance, inconvenience or discomfort to the public and anything by act, or by failure to perform a legal duty, intentionally causes or permits a condition to exist which inures or endangers the public health, safety or welfare.

15. **Officer** means the following persons while that person is in the exercise or discharge of their power or duties: a Community Peace Officer of the Town of Banff appointed under the Peace Officer Act, a member of the Royal Canadian Mounted Police, or a park warden appointed under the Parks Canada Agency Act (Canada).

16. **Owner** means:

- a) In respect of unpatented land, the Crown;
- b) In respect of other land the Person who is registered under the Land Titles Act as the owner of the fee simple estate in the land;
- c) A Person who is the lessee of Crown land and that Person's successors and assigns; and
- d) In respect of any property other than land, the actual owner, occupant, operator or Person in lawful possession of the property.

17. **Person** includes a corporation and the heirs, executors, administrators or other legal representative of a person, and an individual having charge or control of a Premises.

18. **Portable Fire Receptacle** means an outdoor fire receptacle which is not permanently affixed.

19. **Premises** includes the external surfaces of all buildings and the whole or part of any parcel of real property, including land immediately adjacent to any building or buildings.

20. **Public Utility** means a system or works used to provide one or more of the following for public consumption, benefit, convenience or use: a) Water or steam;

- b) Sewage disposal;
- c) Public transportation operated by or on behalf of the municipality;
- d) Irrigation;
- e) Drainage;
- f) Fuel;
- g) Electric power;
- h) Heat;
- i) Waste management;
- j) Residential and commercial street lighting
- k) Communications

And includes the thing that is provided for public consumption, benefit, convenience, or use.

21. **Structure** includes any building, retaining wall, scaffolding, shed or portable shack.
22. **Town** means the Corporation of the Town of Banff and, where the context requires, the land included within the boundaries of the Town of Banff.
23. **Unsightly** means any matter or thing determined by Council to be untidy or unsightly as to constitute failure to conform to external, generally accepted community standard.
24. **Violation Ticket** means a ticket issued pursuant to Part II of the Provincial Offences Procedure Act, R.S.A. 2000, c. P-34, as amended, and regulations thereunder and which requires payment in the amount specified in this Bylaw.
25. **Weekday** means any day other than Saturday, Sunday or a holiday as set out in the regulations to the Employment Standards Code of Alberta.
26. **Wildlife Attractant** means any substance that could reasonably be expected to attract wildlife including but not limited to feed products, domestic garbage, pet food, seed grease and compost waste other than lawn clippings, leaves or branches.

Added 2020.10.14 Bylaw 444

**SCHEDULE “B” – Residential Construction**

	Residential Property Owner		Commercial Operator	
Weekday	Start Time	End Time	Start Time	End Time
Monday	7:30 AM	9:00 PM	7:30 AM	9:00 PM
Tuesday	7:30 AM	9:00 PM	7:30 AM	9:00 PM
Wednesday	7:30 AM	9:00 PM	7:30 AM	9:00 PM
Thursday	7:30 AM	9:00 PM	7:30 AM	9:00 PM
Friday	7:30 AM	9:00 PM	7:30 AM	9:00 PM
Weekend				
Saturday	10:00 AM	9:00 PM	10:00 AM	10:00 PM
Sunday*	10:00 AM	9:00 PM	NIL	NIL

\*Residential construction on Sundays is restricted to construction performed by the property owner.

**SCHEDULE “C”– Penalties**

Amended 2018.08.15 Bylaw 401

Section	Description	Penalty
6	Accumulation of offensive materials or the placement of wildlife attractants <small>Amended 2020.10.14 Bylaw 444</small>	\$150.00 plus \$100.00 per day for each day the offence continues after conviction
7	Accumulation of materials	\$150.00 plus 100.00 per day for each day the offence continues after conviction
8	Accumulation of construction materials	\$150.00 plus 100.00 per day for each day the offence continues after conviction
10	Storage of open/exposed hazardous fluids	\$150.00 plus 100.00 per day for each day the offence continues after conviction
11 & 12	Storage of appliances/Fail to remove hinges or securely lock appliances	\$150.00 plus \$100.00 per day for each day the offence continues after conviction
14	Allow fence or structure to become a safety hazard	\$150.00 plus \$100.00 per day for each day the offence continues after conviction
15	Fail to maintain property	\$150.00 plus \$100.00 per day for each day the offence continues after conviction
17 & 18	Allow excavation, pond, or water course to become a danger to public safety	\$150.00 plus \$100.00 per day for each day the offence continues after conviction
19, 20 & 21	Allow water to enter/Direct water to adjacent premises.	\$150.00 plus \$100.00 per day for each day the offence continues after conviction
22	Allow smoke, dust or airborne matter to disturb others	\$150.00 plus \$100.00 per day for each day the offence continues after conviction

23	Fail to contain papers, flyers, loose debris	\$150.00 plus \$100.00 per day for each day the offence continues after conviction
32	Improper construction or placement of a fire pit	\$150.00 plus \$100.00 per day for each day the offence continues after conviction
33	Improper placement of a portable fire receptacle	\$150.00 plus \$100.00 per day for each day the offence continues after conviction

Section	Description	Penalty
34	Improper operation of a fire pit, outdoor fireplace, or portable fire receptacle.	\$150.00 plus \$100.00 per day for each day the offence continues after conviction
35	Burning of prohibited materials	\$150.00 plus \$100.00 per day for each day the offence continues after conviction
36	Burning during Fire Ban	\$500.00
37.1	Property owner or lease allow camping on private property.	\$100.00
38	Person creating noise that disturbs others	\$250.00-first offence \$500.00-second offence within 365 days of first offence
39	Owner, Person in care and control of property make illegal noise that disturbs others	\$250.00-first offence \$500.00-second offence within 365 days of first offence
41	Create illegal noise in Hospital Zone	\$250.00-first offence \$500.00-second offence within 365 days of first offence



42	Illegal unloading in Residential District	\$250.00-first offence \$500.00-second offence within 365 days of first offence
44	Clearing of snow outside of allowable hours for Retail, Commercial, and Public Institution	\$250.00-first offence \$500.00-second offence within 365 days of first offence
45	Illegal use of outdoor speakers or other noise making instrument	\$250.00-first offence \$500.00-second offence within 365 days of first offence
48	Create unnecessary noise in Service Commercial District	\$250.00-first offence \$500.00-second offence within 365 days of first offence
49, 50, 51	Illegal operation of motorized garden or snow removal tool or model vehicle or aircraft.	\$250.00-first offence \$500.00-second offence within 365 days of first offence
52	Illegal construction noise	<u>Non-Commercial/Private:</u> \$250.00-first offence \$500.00-second offence within 365 days of first offence
Section	Description	Penalty
		<u>Commercial Contractor</u> \$500.00 Each Offence
55	Illegal application of Graffiti	Mandatory Court Appearance
56	Owner fail to remove graffiti	\$75.00
59	Unauthorized deposit of commercial flyers	\$150.00 plus \$100.00 per day for each day the offence continues after conviction
60	Distributor depositing commercial flyers where unauthorized	\$150.00 plus \$100.00 per day for each day the offence continues after conviction

61	Public urination/defecation	\$250.00-first offence and \$500 for a second offence within 365 days of first offence
62	Fight in public place	\$500.00
63, 64	Fail to disperse when requested/Behaviour likely to disturb others.	\$250.00-first offence \$500.00-second offence within 365 days of first offence.
65	Allowing a door to be held, secured or propped open during a time when it is not permitted	\$150 each occurrence 2022.05.24 Bylaw 344

**Attachment 2 - Construction Noise Hours in Neighbouring Municipalities**

	<b>Bylaw</b>	<b>Monday to Friday</b>	<b>Saturday</b>	<b>Sunday</b>	<b>Holiday</b>
<b>Town of Banff</b>	Community Standards Bylaw 260	7:30AM to 9PM	<b>10AM to 10PM</b>	-	?
<b>Town of Jasper</b>	Noise Bylaw 2008	7:30AM to 9PM	7:30AM to 9PM	-	-
<b>Town of Canmore</b>	Community Standards Bylaw 2022-16	7AM to 10PM	7AM to 10PM	-	-
<b>Town of Cochrane</b>	Noise Control Bylaw 16/2011	7AM to 10PM	7AM to 10PM	9AM to 10PM	9AM to 10PM
<b>City of Calgary</b>	Community Standards Bylaw 5M2004	7AM to 10PM	7AM to 10PM	9AM to 10 PM	9AM to 10PM

**Attachment 3 - Violation Penalties in Neighbouring Municipalities**

	<b>Bylaw</b>	<b>Penalties</b>
<b>Town of Banff</b>	Community Standards Bylaw 260	<b><i>Commercial operator: Each offence - \$500</i></b>
<b>Town of Jasper</b>	Noise Bylaw 2008	First offence - \$200 Second offence - \$400 Third or subsequent offences - \$2000
<b>Town of Canmore</b>	Community Standards Bylaw 2022-16	First offence - \$250 Second offence - \$500 Third and subsequent offences - \$1000
<b>Town of Cochrane</b>	Noise Control Bylaw 16/2011	First offence - \$350 Second offence - \$700 Third and subsequent offences - \$1050
<b>City of Calgary</b>	Community Standards Bylaw 5M2004	First offence - \$250 Second and subsequent offences - \$500

**Attachment 4 - Revised Schedule "B"**

**Schedule "B"**

<b>Construction Noise - Residential Property Owner</b>		
	<b>Start Time</b>	<b>End Time</b>
Monday	7:30AM	9PM
Tuesday	7:30AM	9PM
Wednesday	7:30AM	9PM
Thursday	7:30AM	9PM
Friday	7:30AM	9PM
Saturday	10AM	9PM
Sunday	10AM	9PM
Holiday*	10AM	9PM

<b>Construction Noise - Commercial Operator</b>		
	<b>Start Time</b>	<b>End Time</b>
Monday	7:30AM	9PM
Tuesday	7:30AM	9PM
Wednesday	7:30AM	9PM
Thursday	7:30AM	9PM
Friday	7:30AM	9PM
Saturday	<b>7:30AM</b>	<b>9PM</b>
Sunday	-	-
<b>Holiday*</b>	-	-

*\*Alberta general holidays: New Year's Day, Alberta Family Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day*

Revised Schedule "C" Section 52

**SCHEDULE "C"– Penalties**

Section	Description	Penalty
52	Illegal construction noise	<u>Non-Commercial/Private:</u> \$250.00-first offence \$500.00-second offence within 365 days of first offence
52	Illegal construction noise	<u>Commercial Contractor</u> <b>\$500 - first offence</b> <b>\$1000 – second &amp; subsequent offence within 365 days of first offence</b>