

Bylaw No. 712-16
A Bylaw of The Town of Rosetown to Regulate Noise

The Town of Rosetown in the Province of Saskatchewan enacts as follows:

Short Title

1. This bylaw may be cited as The Noise Bylaw.

Purpose

2. This Bylaw is enacted to reduce all unusually loud or bothersome noise as far as possible, with noises compatible with the normal activities of urban life permitted, while eliminating unnecessary noise, for reasonable persons of ordinary sensitivity.

Definitions

3. In this Bylaw:

- a) “Bylaw Enforcement Officer” means a Bylaw Enforcement Officer appointed by Council in accordance with *The Municipalities Act*;
- b) “engine brake” means a device commonly used in a truck, power unit or semi-trailer unit to slow or brake the vehicle by means of closing the exhaust valves on the engine of the vehicle, or any similar device;
- c) “justice” means a judge of the Provincial Court of Saskatchewan or a presiding justice of the peace;
- d) “motor vehicle” means a motor vehicle within the meaning of *The Traffic Safety Act* of Saskatchewan;
- e) “occupant” means the owner, occupant, or licensee of the premises or any person found on the premises at or around the time the noise or sound issues from the premises;
- f) “outdoor public event” means an outdoor concert, sporting event, festival, attraction or similar event, whether held on private or public property, to which the public-at-large is invited or admitted, with or without charge;
- g) “peace officer” shall include a Bylaw Enforcement Officer, a Special Constable or a Community Safety Officer, as appointed by Council or members of the Royal Canadian Mounted Police;
- h) “premises” means the area contained within the boundaries of any lot including any buildings situated within such boundaries, provided however, that when any building contains more than one dwelling unit each dwelling unit, or common area of the building and the land surrounding the buildings within the boundaries of the lot shall be deemed to be separate premises;

i) “public holiday” means any statutory holiday as defined in *The Saskatchewan Employment Act*, or any holiday proclaimed as such by the Council of the Town of Rosetown;

j) “residential district” means a district defined as such in the Zoning Bylaw;

k) “signaling device” means a horn, gong, bell, klaxon, siren, or other devices producing an audible sound for the purpose of drawing peoples’ attention to an approaching vehicle, including a bicycle;

l) “Town” means the corporation of the Town of Rosetown or the area contained within the boundaries of the Town of Rosetown as the context requires;

m) “weekday” means any day other than a Sunday or public holiday;

n) “Zoning Bylaw” means Bylaw No. 693-14 as enacted by the Council of the Town of Rosetown and any amendments thereto.

Scope

4. (1) This Bylaw applies to the control of all sound originating within the jurisdictional limits of The Town of Rosetown.

(2) This Bylaw is intended to apply to making, or knowingly permitting to be made, any unreasonably loud or excessive noise, disturbance or commotion in any dwelling, place of business or other structure, or upon any public street, park or other place or building.

(3) The ordinary and usual sounds and noises incidental to the occupation and use of property and the activities of persons in the Town, when conducted in accordance with usual standards or practices and in a manner that will not unreasonably disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators of adjacent places of business, are not intended to be subject to the provisions of this Bylaw.

General Prohibition

5. Except to the extent it is allowed by this Bylaw, no persons shall make or continue to make, or cause to be made, or cause to be continued, or allow to be made or allow to be continued to be made, any noises which:

- a) are unusually loud or unusually bothersome; or
- b) to a substantial degree, annoys, disturbs, endangers, or detracts from the comforts, repose, health, peace, or safety of other persons within the limits of the Town.

6. Factors for determining whether a sound is unreasonably loud or excessive include, but are not limited to, the following:

- a) the proximity of the sound to sleeping facilities, whether residential or commercial;
- b) the land use, nature and zoning of the area from which the sound emanates and the area where it is received or perceived;
- c) the time of day or night the sound occurs;
- d) the duration of the sound;

- e) the volume of the sound;
- f) the nature of the sound;
- g) whether the sound is recurrent, intermittent or constant; and
- h) the nature of the event or activity from which the sound emanates.

7. In the absence of other evidence, or by way of corroboration of other evidence, a justice may infer from the evidence of a peace officer, bylaw enforcement officer or other persons delegated to enforce this bylaw relating to the conduct of a person or persons that a sound is unreasonably loud or excessive.

8. What is an unusually loud or unusually bothersome noise or a noise which to a substantial degree, annoys, disturbs or endangers the comfort, repose, health, peace, or safety of other persons, is a question of fact for a court which hears a prosecution for an offense against this Bylaw.

Domestic Noises

9. Without restricting the generality of Section 5 no persons shall operate or allow to be operated:

- a) a lawnmower of any kind;
- b) a snow clearing device powered by an engine of any type; or
- c) a model aircraft or remote-controlled vehicle powered by an internal combustion engine'
- d) a snowmobile or all-terrain vehicle

in any residential district between the hours of:

- i) 10 o'clock in the evening and 7 o'clock in the next forenoon on weekdays; or
- ii) 10 o'clock in the evening and 9 o'clock in the forenoon of the following day which is a Sunday or public holiday.

10. No person who owns, keeps, houses, harbors, or allows to stay in his premises a dog, shall allow such a dog to bark or howl excessively.

11. No person being the owner or occupant of any premises shall:

- a) operate;
- b) permit to be operated;
- c) suffer to be operated;
- d) allow to be operated; or
- e) play or allow to be played

any radio, phonograph, record-player, tape-recorder, television set, musical instrument or any other apparatus, appliance, device or machine used for the production of amplification of sound, either in or on private premises in a residential district in such a manner that the same is unusually loud or bothersome and can be easily heard and would, or might, annoy, bother, or disturb, to any material degree, any individual or member of the public, which is not on the same premises from which such noises or sound emanates.

Construction Noises

12. Except in an emergency, no person shall carry on the construction, erection, demolition, alteration, or repair of any type of building or structure which involves hammering, sawing, drilling, or the use of any machine, tools, or any other equipment capable of creating a sound beyond the boundaries of the site on which the activity is being carried on, in any district in the Town between the hours of:

- a) 10 o'clock in the evening and 7 o'clock of the next forenoon on weekdays;
- b) 10 o'clock in the evening and 9 o'clock in the forenoon of the following day which is a Sunday or public holiday.

13. Except in an emergency, no person shall operate or allow to be operated:

- a) a cement mixer;
- b) a cement mixer truck;
- c) a gravel crusher;
- d) a riveting machine;
- e) a trenching machine;
- f) a drag line;
- g) an air or steam compressor;
- h) a jack-hammer or pneumatic drill;
- i) a tractor or bulldozer; or
- j) any other tool, device or machine of a noisy nature

so as to create noise which is unusually loud or unusually bothersome to the occupant of any premises between the hours of:

- i) 10 o'clock in the evening and 7 o'clock of the next forenoon on weekdays;
- ii) 10 o'clock in the evening and 9 o'clock in the forenoon of the following day which is a Sunday or public holiday.

Advertising Noises

14. Excepting with prior approval from the Town Administrator, no person shall advertise any event or merchandise by:

- a) ringing bells;
- b) blowing whistles;
- c) calling loudly;
- d) playing music;
- e) playing any type of musical instrument;
- f) playing or using any type of noise making instrument; or
- g) by the use of loudspeakers or other devices for the amplification of sound or by any other audible means

on any street or other public place or in any building or premises with the intention or result that the sound therefrom shall be or is audible to persons using or frequenting any street or other public place.

Motors

15. No person shall allow the diesel motor on a tractor which pulls a trailer or on a semi-trailer truck to remain running for longer than 20 minutes while the tractor trailer, or tractor alone, is stationary in a residential district.

16. No person shall engage, operate, apply or otherwise use an engine brake on any vehicle being driven within the Town.

Outdoor Public Events

17. The use or operation of a loudspeaker, amplifier, public address system radio, "boombox", "ghetto blaster", stereo, musical instrument or similar device that produces, reproduces or amplifies sound at an outdoor public event, other than during the following hours:

- (i) on a Monday, Tuesday, Wednesday or Thursday, between the hours of 11:00 a.m. and 9:00 p.m.;
- (ii) on a Friday or Saturday, between the hours of 11:00 a.m. and 10:00 p.m.; and
- (iii) on a Sunday or statutory holiday, between the hours of 1:00 p.m. and 6:00 p.m.

If permission has been obtained from the Town to extend the hours for the use or operation of amplification equipment at any outdoor public event in accordance with section 19 of this Bylaw, amplification equipment may be used at the event during the extended hours.

Exceptions

18. The provisions of this Bylaw shall not apply to:

- a) The ringing of bells in churches, religious establishments, and schools;
- b) The moderate use of musical instruments to call attention to an opportunity to contribute to a collection made for a Charitable undertaking during the Christmas season or at any other time;
- c) The playing of a band, the sounding of a steam whistle, the sounding of a motor vehicle horn or the use of sound amplification equipment used in connection with any parade;
- d) The moderate playing of musical instruments appropriate to any religious street services;
- e) The sounding of a general or a particular alarm or warning to announce a fire or other emergency or disaster;
- f) The sounding of a factory whistles or the sirens on any devices at normal appropriate times;
- g) The sounding of police whistles or the sirens on any vehicle used by the police or fire department or on any ambulance or public services;
- h) Any use of sound amplification equipment used by the police, fire department, or any ambulance service or public service;
- i) The use in a reasonable manner of any apparatus or mechanism for the amplification of the human voice or of music in a public park or any other commodious space in connection with any public election meeting, public celebration, or other reasonable gathering;
- j) Transit vehicles engaged in normal transit operations.
- k) The construction, repair and maintenance of streets, bridges, sidewalks, alleys, water mains, storm sewer mains, sanitary sewer mains and any other works by or on behalf of the Town.

Extension of Hours for Outdoor Public Events

19. (1) The Town may, upon written application, grant permission to extend the hours during which amplification equipment may be used at an outdoor public event.

(2) In exercising its authority pursuant to subsection (1), the Town may grant its permission with or without conditions.

Appointment of Bylaw Enforcement Officers

20. (1) The administration and enforcement of this Bylaw is delegated to:

- a) the Royal Canadian Mounted Police;
- b) the Bylaw Enforcement Officer of the Town; and
- c) a Special Constable or Community Safety Officer as appointed by the Town.

Penalties

21. Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable on summary conviction to a minimum fine of \$500.00 and a maximum fine not to exceed \$1,000.00. In default of payment of the fine is liable for imprisonment for a period not exceeding sixty days.

21. Except as provided in Subsection (2), every person who contravenes any provision of this Bylaw is guilty of an offence and liable on summary conviction:

- (a) in the case of an individual, to a fine:
 - (i) for a first offence, not less than \$100.00;
 - (ii) for a second offence, not less than \$200.00; and
 - (iii) for a third or subsequent offence, not less than \$400.00;

and not more than \$10,000.00 and, in the case of a continuing offence, to a further fine of not more than \$10,000.00 for each day during which the offence continues; and

- (b) in the case of a corporation, to a fine:
 - (i) for a first offence, not less than \$100.00;
 - (ii) for a second offence, not less than \$200.00; and
 - (iii) for a third or subsequent offence, not less than \$400.00;

and not more than \$25,000.00 and, in the case of a continuing offence to a further fine of not more than \$25,000.00 for each day during which the offence continues.

(2) Every person who uses engine brakes in contravention of Section 16 of this Bylaw is guilty of an offence and liable on summary conviction:

- (a) in the case of an individual, to a fine not less than \$250.00 and not exceeding \$10,000.00 and, in the case of a continuing offence, to a further fine of not more than \$10,000.00 for each day during which the offence continues;
- (b) in the case of a corporation, to a fine not less than \$250.00 and not exceeding \$25,000.00 and, in the case of a continuing offence, to a further fine of not more than \$25,000.00 for each day during which the offence continues.

(3) In default of payment of a fine imposed under either Subsection (1) or Subsection (2), the individual convicted may be imprisoned for a term of not more than one year.

(4) (a) Notwithstanding Subsection (1) and Subsection (2) in the case of a person who contravenes a provision of this Bylaw for the first time, a peace officer may issue a notice of violation to that person;

(b) The notice of violation shall provide that, if the person pays the Town the sum of:

(i) \$250.00 in the case of a violation of Section 16; or

(ii) \$100.00 in the case of any other violation;

within 14 calendar days of the date of the notice of violation, the person shall not be prosecuted for the contravention.

(c) The fine may be paid:

(i) in person, during regular office hours, to the Town office, Rosetown, Saskatchewan;

or

(ii) by mail addressed to the Town Office, Box 398, Rosetown, Saskatchewan, S0L 2V0.

(5) Notwithstanding Subsection (4), if it is, in the opinion of a peace officer, in the public interest to compel a person who has contravened a provision of this Bylaw for the first time to appear before a justice under this Bylaw, the peace officer may issue a summons that requires the person to appear before a justice without the alternative of paying the specified amount to avoid prosecution.

(6) If, in the opinion of a prosecutor it is appropriate, the prosecutor may, on or before the court appearance date, permit the person mentioned in Subsection (5) to pay the specified amount to avoid prosecution.

Severability

22. A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any provision of this Bylaw shall not affect the validity of the remaining parts of this Bylaw.

23. Bylaw No. 284-82, Bylaw No. 412-95 and Bylaw No. 401-03 are hereby repealed.

24. This Bylaw shall come into force and take effect on the day of the final passing thereof.

seal

Brian Gerow – Mayor

Steven Piermantier – Town Administrator

Given third reading and approved by Council on the _____ day of _____, 2016.

Certified a true copy of Bylaw No.712 -16
passed by the Council of the Town of Rosetown
on the _____ day of _____, 2016.

Town Administrator