

CITY OF YORKTON BYLAW NO. 43/1999

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**CITY OF YORKTON
SASKATCHEWAN**

BYLAW NO. 21/99

**A BYLAW OF THE CITY OF YORKTON IN THE PROVINCE OF
SASKATCHEWAN TO PROHIBIT CERTAIN ACTIVITIES CREATING NOISE,
TO ABATE THE INCIDENCE OF NOISE AND TO RESTRICT THE HOURS
WHEN CERTAIN SOUNDS MAY BE MADE**

WHEREAS, the Council of the City of Yorkton in Council assembled enacts as follows:

1. This bylaw may be referred to as the City of Yorkton Noise Bylaw.
2. DEFINITIONS:
In this bylaw:
 - a) **“City”** means the corporation of the City of Yorkton or the area contained within the boundaries of the City of Yorkton as the context requires.
 - b) **“Concert”** means a musical entertainment or performance by voices or instruments or pre-recorded means or all of them, with or without amplification, of an outdoor nature, to which members of the public are invited or admitted, with or without charge.
 - c) **“Engine Brake”** means a device used in trucks and semi-trailer units to slow or brake the said vehicles by means of closing the exhaust valves on the engines of the said vehicles, or any similar device.
 - d) **“Holiday”** shall have the same meaning as holiday has in *The Interpretation Act, 1995, S.S. 1995*, as amended or substituted, and includes any day proclaimed as a civic holiday by the Council of the City of Yorkton.
 - e) **“Occupant”** means a person who is the owner, occupant or leesee of the premises or any person found on the premises at or around the time when the noise or sound issues from the premises.
 - f) **“Peace Officer”** shall have the same meaning as Peace Officer has in *The Summary Offenses Procedure Act, R.S.S. 1978, Ch, S063* as amended or substituted.
 - g) **“Person”** includes any company, corporation, firm, association, partnership, society, individual or party.

- h) **“Premises”** means the area contained within the boundaries of any lot and includes any building situated within such boundaries except where any building contains more than one (1) dwelling unit, and in such case, such dwelling unit, the common area of such building and the land surrounding the building within the boundaries of the lot shall be deemed to be separate premises.
- i) **“Private Property”** means property to which the public have access, whether on payment or otherwise, only by permission of the owner, occupier or lessee of the property.
- j) **“Property”** means real property, together with all improvements which have been affixed or brought on to the land.
- k) **“Residential Building”** means a building which is constructed as a dwelling for human beings.
- l) **“Residential District”** means a district established as a residential district by any Zoning Bylaw in effect within the City of Yorkton.
- m) **“Signalling Device”** means a horn, gong, bell, klaxon, siren or other device producing an audible sound for the purpose of drawing people’s attention to an approaching vehicle or bicycle.
- n) **“Weekday”** means any day other than a holiday.
- o) **“Vehicle”** shall have the same meaning as vehicle has in *The Highway Traffic Act, S.S. 1986* as amended or substituted.
- p) **“Zoning Bylaw”** means Bylaw No. 9/96 as enacted by the Council of the City of Yorkton and amendments thereto and includes any bylaw passed in substitution for or in addition to Bylaw No. 9/96.

3. GENERAL REGULATIONS:

- 3.1 No person shall make, or cause to be made or allow to be made, any loud, unnecessary or unreasonable noise whatsoever which either annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons within the limits of the City, except to the extent that it is allowed by this bylaw.
- 3.2 A loud noise, an unnecessary noise or an unreasonable noise is a question of fact to be determined by a court of competent jurisdiction which hears a prosecution of an offence against this bylaw.

3.3 Except to the extent that it is allowed by this bylaw, no person shall make, or cause to be made or allow to be made any loud, unnecessary or unreasonable noise that, in the opinion of a Peace Officer, either annoys, disturbs, injures, endangers or distracts from the comfort, repose, health, peace or safety of other persons within the limits of the City.

3.4 In the absence of other evidence, or by way of corroboration of other evidence, a court of competent jurisdiction may infer from the evidence of a Peace Officer relating to the conduct of a person or persons, whether ascertained or not, that any loud noise, any unnecessary noise, or any unreasonable noise:

- a) occurred;
- b) was of a nature as to annoy, disturb, injure, endanger or distract from the comfort, repose, health, peace or safety of other person, within the meaning of clause 3.3.

4. DOMESTIC NOISES:

4.1 Without restricting the generality of Section 3, no person shall operate or allow to be operated in any residential district:

- a lawn mower of any kind;
- a snow clearing machine powered by an engine of any type;
- a rototilling machine of any kind; or
- any other machine or device of a similar or like nature that is powered by an internal combustion engine or an electrical motor

- a) after the hour of 10 o'clock in the evening and before the hour of 7 o'clock in the morning of any weekday;
- b) after the hour of 10 o'clock in the evening and before the hour of 8 o'clock in the morning of any holiday.

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

4.3 In the absence of other evidence, or by way of corroboration of other evidence, a court of competent jurisdiction may infer from the evidence of a Peace Officer relating to a person who owns, keeps, houses, harbours or allows a dog to stay on or in his premises, whether ascertained or not, that such dog barked, howled or whined excessively within the meaning of 4.2.

4.4 No person shall own, keep, house or harbour any animal or bird, which by its cries or sounds unduly disturbs the peace, quiet, rest or tranquility of the neighbourhood or the public at large.

4.5 No person being the owner or occupant of any premises shall operate or permit to be operated, or suffer to be operated, or allow to be operated, 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 can be easily heard by an individual or member of the public who is not on the same premises from which such noise or sound emanates.

5. CONSTRUCTION NOISES:

5.1 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 zoning district of the City of Yorkton other than one designated in the Zoning Bylaw as:

- C1 Central Business District
- C2 Highway Commercial District
- C3 General Commercial District
- M1 Light Industrial
- M2 Heavy Industrial

- a) after the hour of 10 o'clock in the evening and before the hour of 7 o'clock in the morning of any weekday;
- b) after the hour of 10 o'clock in the evening and before the hour of 8 o'clock in the morning of any holiday.

5.2 Where it is impossible or impractical to comply with this section, the City Council, City Manager, or Director of Public Works and Engineering 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 carrying on the work.

5.3 Except in an emergency, no person shall operate or allow to be operated a cement mixer, a cement mixer truck, a gravel crusher, a riveting machine, a trenching machine, a drag line, an air or steam compressor, a jack-hammer or pneumatic drill, a tractor or bulldozer or any other tool, device or machine, so as to create a noise which may be heard in any residential building:

- a) after the hour of 10 o'clock in the evening and before the hour of 7 o'clock in the morning of any weekday;

- b) after the hour of 10 o'clock in the evening and before the hour of 8 o'clock in the morning of any holiday.

6. ADVERTISING NOISES:

- 6.1 No person shall advertise any event or merchandise by the use of any signaling device or by ringing bells, blowing whistles, calling loudly, playing music, playing any type of musical instrument, playing or using any type of noise making instrument, or by the use of loud speakers or other devices for the amplification of sound with the intention of result that the sound therefrom shall be a loud noise, unnecessary noise or unreasonable noise to persons using or frequenting any street or other public place.

7. DIESEL MOTORS:

- 7.1 No person shall allow the diesel motor on a tractor which pulls a trailer or on a semi-trailer truck to remain running longer than fifteen (15) minutes while the tractor-trailer, or tractor alone, is stationary in any residential district or zone or any other location within five hundred (500) feet of any residential zone.

8. ENGINE BRAKES:

- 8.1 No person shall engage, operate, apply or otherwise use an engine brake on any vehicle while being driven within the City of Yorkton except in an emergency where it is necessary in the circumstance to do so.

9. CONCERTS:

- 9.1 No person shall, on private property or in a park within the City of Yorkton, operate, maintain or conduct a concert which produces, reproduces or amplifies sound in such a manner as to create an unusual or unnecessary noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace and safety of other persons who are not on the same premises from which the sound emanates.
- 9.2 No person shall operate, maintain or conduct a concert in a park within the City of Yorkton without first obtaining written permission from the City of Yorkton.
- 9.3 No person shall operate, maintain or conduct a concert in a park except in accordance with the conditions set out or attached in the written permission from the City of Yorkton.

9.4 No person shall operate, maintain or conduct a concert, in a park or on private property, except during the following times:

- a) on each day from Monday to Thursday, inclusive, after the hour of 11 o'clock in the morning, but not later than 9 o'clock in the evening;
- b) on Friday and Saturday, after the hour of 11 o'clock in the morning, but not later than 10 o'clock in the evening;
- c) on Sunday, after the hour of 1 o'clock in the afternoon, but not later than 6 o'clock in the evening.

10. EXCEPTIONS:

10.1 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 motor vehicles' horns 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 service;
- 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 factory whistles and similar devices at normal appropriate times;
- g) the sounding of police whistles or the sirens or other signalling devices on any vehicle used by the police or fire department or on any ambulance or public service vehicle;
- 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 lawful public gatherings of a similar nature;
- j) transit vehicles engaged in normal transit operations;
- k) the use of any tractors, trucks or other equipment for snow removal, snow clearing, refuse collection or sanding of streets, the repair of streets or the repair and maintenance of any municipal works or utilities;
- l) the use of any equipment for the repair or maintenance of any public utilities including the public utilities operated by the Sask

Power Corporation, Sask Energy Corporation and Saskatchewan Telecommunications;

- m) any person who has obtained a written permit from the City of Yorkton.

11. PENALTY:

11.1 Every person who contravenes any provision of this bylaw is guilty of an offence and liable on summary conviction to a fine of not less than:

- a) \$200.00 in the case of a first offence; and
- b) \$300.00 in the case of each and every subsequent offence within a twenty-four (24) hour period;
- c) \$500.00 in the case of any subsequent offence within three (3) months of any previous offence;

and not more than:

- d) \$2,000.00 in the case of an individual;
- e) \$5,000.00 in the case of a corporation.

11.2 All fines, penalties and forfeitures set forth in this bylaw may be recovered and enforced with late payment charges by summary conviction and, in default of payment where the proceedings have been commenced under Part III of *The Summary Offences Procedure Act, 1990*, as amended, the person convicted may be imprisoned for a term of not more than ninety (90) days, unless the fine or penalty are paid sooner.

11.3 This bylaw may be enforced, and the contravention of any provision of the bylaw restrained, by any court on action brought by the City of Yorkton whether or not any penalty is imposed for the contravention.

11.4 Conviction of a person for a contravention of any provision of this bylaw does not relieve him from compliance with the bylaw, and the convicting Judge or Justice of the Peace shall, in addition to any fine imposed, order the person to perform, within a specified period, any act or work necessary for the proper observance of the bylaw or to remedy the contravention of the bylaw.

11.5 A person who fails to comply with an order made pursuant to subsection 11.4 within the period specified in the order, is guilty of an offence and liable on summary conviction to a fine of not more than Two Hundred Fifty (\$250.00) Dollars for each day during which the failure continues, to imprisonment for a term of not more than ninety (90) days or to both such fine and imprisonment.

12. RELIEF FROM REQUIREMENTS:

12.1 Applications for a permit for relief from the sound levels designated in this bylaw on the basis of undue hardship may be issued by Council. The application shall be made in writing and must include:

- a) the name and address of the applicant;
- b) a description of the source of sound in respect of which exemption is sought;
- c) the period of time for which the exemption is sought;
- d) the reasons why the exemption should be granted;
- e) any other information required at that time; and
- f) a statement of the steps, if any, planned or presently being taken to bring about compliance.

12.2 Council, by resolution, may refuse to grant any exemption or may grant the exemption applied for or any exemption of lesser effect and any exemption granted shall specify the time period during which it is effective and may contain such terms and conditions as Council sees fit. Council may, by resolution revoke such exemption on twenty-four (24) hours written notice to the applicant delivered by ordinary registered mail.

13. SEVERABILITY:

13.1 If a court of competent jurisdiction should declare any section or part of any section of this bylaw to be invalid, such section or part of any section shall not be construed as having persuaded or influenced the Council to pass the remainder of the bylaw and it is hereby declared that the remainder of the bylaw shall be valid and shall remain in force and effect.

14. Bylaw No. 15/91 passed on the 6th day of May, 1982 and any amendments thereto are hereby repealed.

15. This bylaw shall come into force and effect upon its passage.

MAYOR

CITY CLERK

Introduced and read a first time this 17th day of May, A.D., 1999.

Read a second time this 17th day of May, A.D., 1999.

Read a third time and adopted this 21st day of June, A.D., 1999.