

TOWN OF EATONIA

BYLAW NO. 6/22

A BYLAW TO REGULATE NOISE IN THE TOWN OF EATONIA

The Council of the Town of Eatonia, in the Province of Saskatchewan, enacts as follows:

PART I: SHORT TITLE, PURPOSE, DEFINITION

1. Short Title

1.1 This Bylaw may be cited as "The Noise Bylaw".

2. Purpose

2.1 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, while eliminating unnecessary noise, for reasonable persons of ordinary sensitivity.

3. Definitions

3.1 In this Bylaw, unless context otherwise requires, the expression(s):

- a) **"Administrator"** means the Town Administrator of the Town of Eatonia;
- b) **"Bylaw Enforcement Officer"** means a Bylaw Enforcement Officer appointed by Council in accordance with *The Municipalities Act*;
- c) **"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;
- d) **"Justice"** means a Judge of the Provincial Court of Saskatchewan or a presiding Justice of the Peace;
- e) **"Motor Vehicle"** means a motor vehicle within the meaning of *The Traffic Safety Act of Saskatchewan*;
- f) **"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;
- g) **"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;
- h) **"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.
- i) **"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;
- j) **"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 Eatonia;
- k) **"Residential District"** means a district defined as such in the Zoning Bylaw;
- l) **"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;
- m) **"Town"** means the corporation of the Town of Eatonia or the area contained within the boundaries of the Town of Eatonia as the context requires;
- n) **"Weekday"** means any day other than a Sunday or public holiday;

- o) **"Zoning Bylaw"** means the current Zoning Bylaw as enacted by the Council of the Town of Eatonia and any amendments thereto.

PART II: APPLICATION

4. Scope

- 4.1 This Bylaw applies to the control of all sound originating within the jurisdictional limits of the Town of Eatonia.
- 4.2 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.
- 4.3 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 residents 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.

5. General Prohibition

- 5.1 Except to the extent, it is allowed by this Bylaw, no persons shall make, continue to make, 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;
 - 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;
 - c) is contrary to typical noises for the Zoning area and/or approved development permit.
- 5.2 Factors for determining whether a sound is unreasonably or unnecessarily loud include, but are not limited to, the following:
- a) the proximity of the sound to sleeping facilities, whether residential or commercial;
 - b) 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.
- 5.3 Absence of other evidence or by way of corroboration of other evidence, a justice may infer from the evidence of a peace officer, a 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.
- 5.4 The determination of what constitutes an unusually loud or bothersome noise or a noise which is 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.

6. Domestic Noises

- 6.1 Without restricting the generality of Section 5, no persons shall operate or allow to be operated:
- a) a lawnmower of any kind; or
 - 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; or
 - d) a snowmobile or all-terrain vehicle

in any residential district between the hours of:

- i) 11 o'clock in the evening and 7 o'clock in the next forenoon or weekday; or
 - ii) 11 o'clock in the evening and 9 o'clock in the forenoon of the following day which is a Sunday or public holiday.
- 6.2 No person who owns, keeps, houses, harbors, or allows to stay in his premises a dog, shall allow such dog to bark or howl excessively.

- 6.3 No person being the owner or occupant of any premises shall operate, permit to be operated, suffer to be operated, allow to be operated or 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.

7. Construction Noises

- 7.1 Excepting with prior approval from the Town Administration, no person shall carry on the construction, erection, demolition, alteration, or repair of any type of building or structure which involves the use of any tools or 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) 11 o'clock in the evening and 7 o'clock in the next forenoon or weekday;
 - b) 11 o'clock in the evening and 9 o'clock in the forenoon of the following day which is a Sunday or public holiday.
- 7.2 Excepting with prior approval from the Town Administration, no person shall operate or allow to be operated any heavy equipment or machines of a noisy nature, so as to create a noise which is unusually loud and bothersome to the occupant of any premises between the hours of:
- a) 11 o'clock in the evening and 7 o'clock in the next forenoon or weekday;
 - b) 11 o'clock in the evening and 9 o'clock in the forenoon of the following day which is a Sunday or public holiday.

8. Advertising Noises

- 8.1 Excepting with prior approval from the Town Administration, no person shall advertise any event or merchandise by playing or using any type of noise making instrument or by the use of loudspeakers, devices for the amplification of sound or any other audible means of any street, public place 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.

9. Motor Vehicle Noises

- 9.1 No person shall allow the diesel motor on a truck, on a tractor which pulls a trailer or on a semi-trailer truck to remain running for longer than 20 minutes while the truck, tractor-trailer, or tractor alone, is stationary in a residential district.
- 9.2 No person shall operate a motor vehicle in such a manner that it makes, causes to be made or permits to be made any unreasonably loud or excessive noise.

10. Engine Brake

- 10.1 No person shall engage, operate, apply or otherwise use an engine retarding device on any vehicle being driven within the Town limits.

11. Outdoor Public Events

- 11.1 No person(s) shall use or allow to be used a loudspeaker, amplifier, public address system, radio, stereo system, musical instruments or similar device that produces, reproduces or amplifies sound at an outdoor public event, outside the hours of:
- a) 11 o'clock in the evening and 7 o'clock in the next forenoon or weekday;
 - b) 11 o'clock in the evening and 9 o'clock in the forenoon of the following day which is a Sunday or public holiday.
- 11.2 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 13 of this Bylaw, amplification equipment may be used at the event during the extended hours.

PART III: EXCEPTIONS, ENFORCEMENT AND PENALTIES

12. Exceptions

- 12.1 The provisions of this Bylaw shall not apply to:
- a) the ringing of bells in churches, religious establishments, and school;
 - 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 warning to announce a fire or other emergency or disaster;
- f) the sounding of factory whistles or the sirens on any devices at normal appropriate times;
- g) the sounding of police whistles or the sirens on any vehicles used by peace officers, fire department, ambulance services or public services;
- h) any use of sound amplification equipment used by the peace officers, fire department, 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 connections 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.

13. Extension of Hours for Outdoor Public Events

- 13.1 The Administrator or Designate may, upon written application, grant permission to extend hours during which amplification equipment may be used at an outdoor public event.
- 13.2 In exercising its authority pursuant to subsection (1), the Town may grant its permission with or without conditions.

14. Exempt Application

- 14.1 The Administrator or Designate may, upon written application, exempt from the provisions of this Bylaw any source of noise made by a person, organization or corporation in the lawful operation of an industrial, commercial or other business undertaking.

15. Enforcement

- 15.1 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) anyone designated by the Council of the Town of Eatonia.

16. Penalties

- 16.1 Any person who contravenes any provision of this Bylaw or fails to comply therewith or with any order or notice given thereunder is considered guilty of an offence and is liable to the penalties:
- a) in the case of an individual, to a fine:
 - i) \$100.00 for a first offence;
 - ii) \$200.00 for a second offence; and
 - iii) not less than \$400.00 for a third or subsequent offence to an amount 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.
 - b) in the case of a corporation, to a fine:
 - i) \$200.00 for a first offence;
 - ii) \$400.00 for a second offence; and
 - iv) not less than \$1,000.00 for a third or subsequent offence, not less than \$1,000.00 to an amount 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.

17. Payment of Fines

- 17.1 Where any person has or is alleged to have been in contravention of any of the provisions of this Bylaw, a ticket, summons, or notice may be served upon them. Such person may voluntarily make a payment of the assessed penalty sum, to the Town of Eatonia within ten calendar days from the date of issuance. After ten calendar days the increased Penalty Sum, which is double the assessed penalty stated in Section 16, must be paid. If payment is not received within thirty days from the issue date, a Summons shall be issued. If payment is made within such time and accepted, then that person shall not be liable to further prosecution of the offence.
- 17.2 If a provision of this Bylaw conflicts with the provision of any other applicable Town of Eatonia Bylaw, the provision that establishes the higher or more restrictive standard to protect the health, safety, welfare, peace, and comfort enjoyed by the inhabitants of the Town of Eatonia shall prevail.
- 17.3 If a provision of this Bylaw conflicts with the provisions of any legislation, the provision that establishes the higher or more restrictive standard to protect the health, safety, welfare, peace, and comfort enjoyed by the inhabitants of the Town of Eatonia shall prevail.

- 17.4 This Bylaw shall not be construed to reduce or mitigate any restrictions or regulations lawfully imposed by the Town or by any government authority having jurisdiction to make such restrictions or regulations.
- 17.5 In the prosecution of an alleged contravention of any of the provisions of this Bylaw, the onus of proof that the action giving rise to the charge was previously authorized shall lie upon the person charged.
- 17.6 If any section, subsection, sentence, clause, or phrase, or other portion of this Bylaw if for any reason held invalid or unconstitutional by any Court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision and the holding of the Court shall not affect the validity of the remaining portions of this Bylaw.
- 17.7 A person to whom a Notice of Violation is being issued pursuant to this Section shall, upon receipt, provide their names and address. Any person who fails to provide this information is guilty of an offence and liable on summary conviction to be assessed a fines as outlined in the most recent Town of Eatonia General Penalties Bylaw.

PART IV: REPEAL AND COMING INTO FORCE

18. Repeal

18.1 Bylaw No. 3/14 is hereby repealed.

19. Coming into Force

19.1 This Bylaw shall come into force and be in effect on the final passing thereof.


Introduced and given 1st reading on the 9th day of August, 2022

Given 2nd reading on the 9th day of August, 2022

Given 3rd reading and thereby adopted on the 9th day of August, 2022




MAYOR


ADMINISTRATOR

Certified a true copy of
Bylaw No. 6/22 adopted
by resolution of Council
on the 9th day of August
2022


Administrator

