

# BYLAW NO. 747/99

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

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WHEREAS Section 157 of The Urban Municipality Act provides that Council may pass bylaws for all or any of the following purposes:

- (c) controlling and regulating the use of all streets, sidewalks and other public places and delegating to the police powers in connection therewith to act in an emergency;

AND WHEREAS Section 83 of The Urban Municipality Act provides that subject to the other provisions of the Act and the provisions of any other Act, the Council may pass any bylaws that it considers expedient for the peace, order and good government of the municipality and for promoting the health, safety, morality and welfare of the inhabitants thereof;

AND WHEREAS Section 128 of The Urban Municipality Act provides that Council may pass bylaws for all or any of the following purposes:

- (a) prohibit, regulate or abate noise from whatever source, on any public or private place, and, without restricting the generality of the foregoing, may establish permissible noise levels or may provide that no one shall make any unnecessary or unreasonable noise for all or varying periods of the day within the urban municipality or within any specified area of the urban municipality;
- (b) prohibit and regulate the use of loudspeakers or other devices for the amplification of sound on any street or other public or private place or in any building.

AND WHEREAS the incidence of noise in the Town of Nipawin is such that the Council of the Town of Nipawin deems it expedient that regulations be made restricting and abating the activities which give rise to unnecessary noise in the Town;

AND WHEREAS the intent of this bylaw is that all noise shall be reduced as far as possible compatible with the normal activities of urban life and that unnecessary noise be eliminated.

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

1. This bylaw may be cited as "The Noise Bylaw".
2. In this bylaw, including this section:
  - (a) "**Town**" means the corporation of the Town of Nipawin or the area contained within the boundaries of the Town of Nipawin, as the context requires;
  - (b) "**holiday**" means any public holiday as defined in The Labour Standards Act, and amendments thereto, or any holiday proclaimed as such by the Council of the Town of Nipawin;
  - (c) "**motor vehicle**" means "motor vehicle" as defined in The Highway Traffic Act of Saskatchewan;
  - (d) "**residential building**" means a building which is constructed as a dwelling for human beings;
  - (e) "**residential district**" means a district defined as such in the Zoning Bylaw enacted by the Council of the Town of Nipawin and amendments thereto;

- (f) **"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, including a bicycle;
- (g) **"weekday"** means any day other than a Sunday or holiday.

### **GENERAL PROHIBITION**

- 3. (1) Except to the extent it is allowed by this bylaw, no person shall make, or continue to make, or cause to be made, or allow to be made, or allowed to be continued to be made, any loud noise, or any unnecessary noise, or any unusual noise.
- (2) Except to the extent it is allowed by this bylaw no person 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, any 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 Town.
- (3) What is a loud noise, an unnecessary noise, an unusual noise, or a noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of other persons is a question of fact for a court which hears a prosecution of an offence against this bylaw.

### **DOMESTIC NOISES**

- 4. Without restricting the generality of Section 3, no person shall operate or allow to be operated a lawn mower of any kind, or a snow clearing device powered by an engine of any type or a model aircraft driven by an internal combustion engine in any residential district between the hours of:
  - (a) 11:00 o'clock in the evening and 6:30 o'clock of the next forenoon on weekdays;
  - (b) 11:00 o'clock in the evening and 7:30 o'clock in the forenoon of the following day which is a Sunday or holiday.
- 5. No person who owns, keeps, houses, harbours or allows to stay in his premises a dog shall allow such dog to bark excessively or howl excessively.
- 6. (1) 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, CD player, record player, tape recorder, television set, musical instrument, or any other apparatus, appliance, device or machine used for the production or 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.
- (2) For the purpose of this bylaw, "premises" shall mean the area contained within the boundaries of any lot and includes any building situate within such boundaries. Provided, however, that where any building contains more than one dwelling unit, each dwelling unit, or common area of such building and the land surrounding the building within the boundaries of the lot shall be deemed to be separate premises.
- (3) For the purpose of this bylaw, "occupant" shall mean the owner, occupant or licensee of the premises or any person found on the premises at or around the time when the noise or sound issues from the premises.

## **CONSTRUCTION NOISES**

7. 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 or 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 of a noisy nature, so as to create a noise which may be heard in any residence between the hours of:
- (a) 11:00 o'clock in the evening and 6:30 o'clock of the next forenoon on weekdays;
  - (b) 11:00 o'clock in the evening and 7:30 o'clock in the forenoon of the following day which is a Sunday or holiday.

## **DIESEL MOTORS**

- 8 (a) No person shall allow the diesel motor on a tractor which pulls a trailer or on a semi-trailer truck, or any other truck, to remain running for longer than 30 minutes while the tractor-trailer, or tractor alone, or truck, is stationary in a residential district.

## **ENGINE BRAKES**

9. No person shall engage, operate, apply or otherwise use an engine brake on any vehicle being driven within the Town of Nipawin except to avoid or reduce the impact of a collision or in the case of such other emergency.

## **EXCEPTIONS**

10. 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 in connection with any parade authorized by Council pursuant to the provisions of the Traffic Bylaw;
  - (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 a factory whistle and similar 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 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 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 use of any tractors, trucks or other equipment for snow removal, snow clearing 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 Saskatchewan Power Corporation and Saskatchewan Telecommunications;
- (m) the sounds caused by any person, animal, machine or by any other means during the carrying on or operation of any exhibition, circus, sporting event or any other activity lawfully authorized on or in the lands and buildings of the Nipawin Exhibition Association;
- (n) the sounds caused by any person, animal, machine or by any other means during the carrying on or operation of any lawfully authorized sporting event in any sports arena or building, public park or any other public place where such sporting event may be lawfully carried on.
- (o) the moderate use of playing any type of musical instrument, playing music, or by the use of loud speakers or other devices for the amplication of sound, or by any other audible means in any business building or premises for the purpose of advertising a business sales promotion or celebration.

11. Council may, by resolution, exempt from the provisions of this bylaw the noises made by any person, firm or corporation in the lawful operation of any industrial or commercial or any other business undertaking.

**PENALTIES:**

12 (1) Any person who contravenes any provision of this bylaw is guilty of an offence and is liable on summary conviction to a fine provided as follows:

1st offence	\$ 100.00
2nd offence	200.00

The penalty for a 3rd or subsequent offence shall be \$300.00. Notwithstanding, a Provincial Magistrate or Justice of the Peace, may, at his/her discretion, impose a greater penalty, however such penalty shall be limited to a maximum fine, pursuant to Section 92 of The Urban Municipality Act, of not more than:

- \$2,000.00 in the case of an individual
- \$5,000.00 in the case of a corporation

(2) A person charged with a 1st offence under this bylaw is authorized to make a voluntary payment of \$100.00 in accordance with and within the meaning of The Summary Procedures Act, 1990.

(3) Any person charged with a second or subsequent offence shall, before making his/her

plea before a Provincial Magistrate or Justice of The Peace, be served a notice of intent that a greater penalty will be sought by reason of previous convictions.

- (4) Nothing in this section shall be construed to prevent any person from exercising his/her right to defend a charge of contravention of this bylaw.
- 13. Bylaw No. 478/83 and 481/83 are hereby repealed.
- 14. This Bylaw shall come into force and take effect upon the final passing thereof.

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Mayor

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Town Administrator

READ A THIRD TIME AND  
FINALLY ADOPTED THIS  
\_\_\_\_\_DAY OF \_\_\_\_\_,  
1999

**NOTICE OF INTENTION UNDER SECTION 12(3)  
OF THE TOWN OF NIPAWIN BYLAW NO. 747/99**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Take notice that if you are convicted of the offence under Section 12 of Town of Nipawin Bylaw No. 747/99 with which you are now charged, a greater punishment will be sought by reason of your having been previously convicted.

\_\_\_\_\_  
Signature of Peace Officer  
serving this notice

\_\_\_\_\_  
Dated

I acknowledge that I have received a copy of this notice.

\_\_\_\_\_ Signature of Accused

\_\_\_\_\_  
Dated

