

TOWN OF TISDALE

BYLAW NO. 3/04

A BYLAW OF THE TOWN OF TISDALE IN THE PROVINCE OF SASKATCHEWAN TO REGULATE AND CONTROL NOISE, AND CERTAIN ACTIVITIES RELATED THERETO.

The Council of the Town of Tisdale in Council enacts as follows:

1. This Bylaw may be referred to as the Town of Tisdale Noise Bylaw.
2. INTERPRETATION:
 - 2.1 In this Bylaw:
 - (a) **"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.
 - (b) **"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 vehicle, or any similar device.
 - (c) **"Holiday"** shall have the same meaning as set forth in *The Interpretation Act* as amended or substituted, and includes any day proclaimed as a civic holiday by the Council of the Town of Tisdale.
 - (d) **"Loud or Unreasonable Noise"** means any noise or sound which annoys, offends or disturbs a Person, provided such noise would annoy, offend or disturb a reasonable Person.
 - (e) **"Occupant"** includes all Persons who are the owners, inhabitants or lessees of Premises, and any other Persons on Premises when a Loud or Unreasonable Noise emanate therefrom.
 - (f) **"Person"** includes any company, corporation, firm, association, partnership, society, individual or party.
 - (g) **"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.
 - (h) **"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.
 - (i) **"Property"** means real property, together with all improvements which have been affixed or brought on to the land.
 - (j) **"Residential District"** means a district established as a Residential district by any Zoning Bylaw in effect within the Town of Tisdale.
 - (k) **"Signaling Device"** means a horn, gong, bell, siren or other device producing an audible sound for the purpose of drawing people's attention to an approaching vehicle or bicycle.

(l) "Town" means the corporation of the Town of Tisdale or the area contained within the boundaries of the Town of Tisdale as the context requires.

(m) "Vehicle" shall have the same meaning as set forth in *The Highway Traffic Act, S.S. 1986* as amended or substituted.

2.2 The determination as to whether a noise is loud, unreasonable is unnecessary a question of fact to be determined by the court hearing a prosecution of an offence against this Bylaw.

3. GENERAL PROHIBITION:

3.1 No Person shall:

(a) make or cause to be made, or;

(b) permit, suffer or allow to be made from Premises of which he or she is an Occupant;

any Loud or Unreasonable Noise whatsoever either within the Town or which is heard within the Town, except to the extent that it is allowed by this Bylaw.

3.2 Nothing else contained in the Bylaw shall be construed or considered as limiting the generality of the foregoing except for section 5.2.

4. PERSONAL DOMESTIC NOISES:

4.1 Without restricting the generality of Section 3, no Person shall operate or allow to be operated in any Residential District, any device, tool, appliance or machine powered by an internal combustion or electrical motor (other than motor vehicles and snowmobiles, to which this section 4 does not apply), including:

- a lawn mower
- a rototiller
- a power or chain saw
- a leaf blower.

a) after the hour of 11 o'clock in the evening and before the hour of 7 o'clock in the morning of any holiday;

b) After the hour of 11 o'clock in the evening and before the hour of 7 o'clock in the morning of any other day.

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. and no Person shall own, keep, house or harbour any animal or bird, which makes sounds, including barking, whining or howling, which are capable of being heard continuously from outside the Premises.

4.3 No Person shall operate, or permit or suffer to be operated, any radio, stereo, tape recorder, television set, musical instrument, or any other apparatus, appliance, device or machine used for the reproduction of amplification of sound, at a volume that interferes the peace or enjoyment of other persons.

5. COMMERCIAL AND CONSTRUCTION NOISES:

5.1 Except in an emergency, no Person shall:

- a) carry on the construction, erection, demolition, alteration or repair of any type of building or structure;
- b) engage in hammering, sawing, drilling or the use of any machine, tools or any other equipment, or;
- c) operate or allow to be operated a cement mixer, a cement mixer truck, a gravel crusher, a riveting machine, sand blaster, welder, a trenching machine, a drag line, an air or steam compressor, a jackhammer or pneumatic drill, a tractor, bulldozer, bobcat or any other tool, device or machine, 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 Town 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 11 o'clock in the evening and before the hour of 7 o'clock in the morning of any Holiday.
- b) After the hour of 11 o'clock in the evening and before the hour of 7 o'clock in the morning of any other day.

5.2 It shall not be an offence under this Bylaw for the Occupants of Premises located in the M1 Light Industrial or the M2 Heavy Industrial zone districts to create, cause, allow or permit Loud or Unnecessary noise or noises, provided that such noise or noises are necessary in the performance of lawful commercial activities thereon.

5.3 Where it is impossible or impractical to comply with this section, the TOWN Council, Town Administrator, or Director of Public Works and Engineering may in their discretion, on application by any person introduced in the activity in question, give written approval to carry on the work that is found to be necessary at designated hours or on such terms and codes as they consider advisable.

6. ADVERTISING NOISES:

6.1 Except in a commercial zone, and during normal commercial hours, 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 reproduction or amplification of sound in such a manner as to interfere with the peace or enjoyment of other persons.

7. DIESEL ENGINES:

7.1 No Person shall cause or allow on a highway tractor or other diesel or heavy engine to remain running longer than thirty (30) minutes while the unit is located 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 vehicles while being driven within the Town of Tisdale except in an emergency where it is necessary in the circumstance to do so.

9. IDLING VEHICLES:

- 9.1 No Person who has caused or allowed a vehicle to be left running stationary in a residential zone for a period longer than fifteen (15) minutes shall continue to do so, upon being requested to turn the vehicles off by any Person who had been annoyed, offended, disturbed or had his or her comfort or repose detracted from by the running of that vehicles.

10. CONCERTS:

- 10.1 No Occupant of Premises shall operate, maintain or conduct a Concert or other production which produces, reproduces or amplifies sound in such a manner as to create an Loud or Unreasonable noise which annoys, disturbs or injures the comfort, repose, health, peace or safety of other Persons who are not on the Premises.
- 10.2 No Person shall operate, maintain or conduct a Concert in a park or other public property within the Town of Tisdale without first obtaining written permission from the Town of Tisdale, and then only in accordance with the conditions set out or attached in the written permission from the Town of Tisdale.

11. EXCEPTIONS:

- 11.1 The provisions of this Bylaw shall not apply to:
- a) the ringing of bells (or electronic versions or reproductions thereof) in churches, religious establishment and schools;
 - b) the moderate use of music, bells or similar sounds 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 participants in any parade authorized by the Town of Tisdale;
 - d) the moderate playing of musical instruments and singing appropriate to any religious or other street service;
 - e) the sounding of a general or a particular alarm or warning to announce a fire or other emergency or disaster, or to announce a practice in that regard;
 - f) the sounding of factory whistles and similar devices at normal appropriate times;
 - g) the sounding of sirens, sound amplification equipment or other SIGNALLING DEVICES on any VEHICLE used by the police or fire department or on any ambulance or public service VEHICLE;
 - h) the use in a reasonable manner of any apparatus or mechanism for the amplification of the human voice or of music in public park or any other commodious space in connection with any public election meeting, public celebration, or other lawful public gathering of a similar nature;
 - i) transit VEHICLES engaged in normal transit operations;

- j) 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;
- k) the use of any equipment for the repair or maintenance of any public utility or work including the public utilities operated by the Sask Power Corporation, Sask Energy Corporation and Saskatchewan Telecommunications;
- l) any Person who is carrying on an activity for which they obtained a written permit from the Town of Tisdale, provided the activity is being carried on in according the terms thereof.

insofar as the same are implied or used in the course of or incidentally to the said activities.

12. PENALTY:

12.1 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.

12.2 All fines, penalties and forfeitures set forth in this Bylaw may be recovered and enforced with late payment charges by summary conviction proceedings under The Summary Offences Procedure Act, in any substituted legislations and, in default of payment, the Person convicted may be imprisoned for a term of not more than ninety (90) days, unless the fine or penalty are paid sooner.

12.3 This Bylaw may be enforced, and the contravention of any provision of the Bylaw restrained, by any court on action brought by the Town of Tisdale whether or not any penalty is imposed for the contravention.

12.4 Conviction of a Person for a contravention of any provision of this Bylaw does not relieve him from compliance with the Bylaw, and the conviction Judge or Justice of the Peace may, 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.

12.5 A Person who fails to comply with an order made pursuant to subsection 12.4 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.

13. RELIEF FROM REQUIREMENTS:

13.1 Applications for a permit for relief from any provision of this Bylaw may be made to the Council only on the grounds of under hardship or substantial impracticality on the basis of undue hardship 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 exception 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.

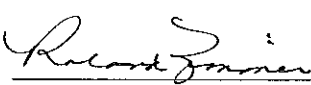
13.2 Council, by resolution, may refuse to grant any exemption or may grant the exemption applied for or any exception of lesser effect and any exemption granted shall specify the time period during which it is effective and may contain such terms and conditions as Council sees fit. Council may, by resolution revoke such exemption on 48 hours written notice to the applicant delivered by ordinary registered mail.


14. SEVERABILITY:

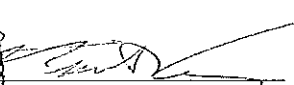
14.1 If a court of competent jurisdiction should declare any section or part of any section of this Bylaw to be invalid, such section or part of any section shall not be construed as having persuaded or influenced the Council to pass the remainder of the Bylaw and it is hereby declared that the remainder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

15. Bylaw No. 6/84 passed on the 26th day of March, 1984 and any amendments thereto are hereby repealed.

16. This Bylaw shall come into force and effect upon its passage.


MAYOR




TOWN ADMINISTRATOR