

BYLAW NO. 1968

A BYLAW OF THE CITY OF NORTH BATTLEFORD IN THE PROVINCE OF SASKATCHEWAN, TO PROVIDE FOR NOISE CONTROL WITHIN THE CITY.

THE COUNCIL OF THE CITY OF NORTH BATTLEFORD ENACTS AS FOLLOWS:

Short Title

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

Purpose

2. This Bylaw is enacted to protect, preserve and promote the safety, health, welfare, peace and quiet of the citizens of the City of North Battleford through the reduction, control, and prevention of loud and excessive noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity.

Definitions

3. In this Bylaw:

"agricultural district" means an agricultural district as established by *The Zoning Bylaw*;

"City" means the Corporation of the City of North Battleford or the area contained within its boundaries as the context requires;

"dwelling" means a dwelling within the meaning of *The Zoning Bylaw*;

"dwelling unit" means a dwelling unit within the meaning of *The Zoning Bylaw*;

"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;

"holiday" means any statutory holiday as defined in *The Interpretation Act*, and amendments thereto, or any holiday proclaimed as such by the Council of the City of North Battleford;

"industrial district" means an industrial district as established by *The Zoning Bylaw*;

"justice" means a judge of the Provincial Court of Saskatchewan or a presiding justice of the peace;

"motor vehicle" means a motor vehicle within the meaning of *The Traffic Safety Act*;

"occupant" means a person who is the owner, occupant or lessee of the premises or any person found on the premises at or around the time when the noise or sound issues from the premises;

"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;

"peace officer" shall have the same meaning as in *The Summary Offences Procedure Act, 1990*;

"power unit" means a power unit within the meaning of *The Traffic Safety Act*;

"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;

"residential building" means a building which is constructed as a dwelling place for human beings;

"residential district" means a residential district established by *The Zoning Bylaw*;

"semi-trailer" means a semi-trailer within the meaning of *The Traffic Safety Act*;

"signalling device" means a horn, gong, bell, claxon, siren or other device producing an audible sound for the purpose of drawing people's attention to an approaching vehicle, including a bicycle;

"truck" means a truck within the meaning of *The Traffic Safety Act*;

"weekday" means any day other than a Sunday or holiday;

"zoning bylaw" means *The Zoning Bylaw* of the City of North Battleford.

Scope

4. (a) This Bylaw applies to the control of all sound originating within the jurisdictional limits of the City of North Battleford.
- (b) 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.

The ordinary and usual sounds and noises incidental to the occupation and use of property and the activities of persons in the City, 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 Prohibitions

5. (a) 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 allow to be continued to be made:
 - (i) any unreasonably loud or excessive noise;
 - (ii) any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity within the jurisdictional limits of the City; or
 - (iii) any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighbourhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbours or their guests, or operators or customers of places of business, or as to detrimentally or adversely affect such residences or places of business.
- (b) Factors for determining whether a sound is unreasonably loud or excessive include, but are not limited to, the following:
 - (i) the proximity of the sound to sleeping facilities, whether residential or commercial;
 - (ii) the land use, nature and zoning of the area from which the sound emanates and the area where it is received or perceived;
 - (iii) the time of day or night the sound occurs;

- (iv) the duration of the sound;
 - (v) the volume of the sound;
 - (vi) the nature of the sound;
 - (vii) whether the sound is recurrent, intermittent or constant; and
 - (viii) the nature of the event or activity from which the sound emanates.
- (c) The interpretation of what constitutes a loud noise, an unusual noise, an unnecessary noise or an unreasonable noise is a question of fact for a Justice which hears a prosecution of an offence against this Bylaw.
- (d) 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.
- (e) 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 relating to the conduct of a person or persons, whether ascertained or not, that any loud noise, any unnecessary noise, or any unreasonable noise:
- (i) occurred;
 - (ii) was of a nature as to annoy, disturb, injure, endanger or distract from the comfort, repose, health, peace or safety of other persons, within the meaning of subsection 5(d).

Specific Prohibitions

6. Domestic Noises

- (a) No person shall operate or allow to be operated in any residential district, power equipment or machinery used in lawn and garden care or property maintenance, including any lawn mower, leaf blower, hedge trimmer, edge trimmer, line trimmer, compressor, power fan, roto-tiller, chainsaw, a snow clearing device powered by an engine of any description or a model aircraft driven by an internal combustion engine, 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 statutory holiday.

- (b) 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, compact disc player, 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.

7. Construction Noises

- (a) 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 in the City of North Battleford other than one designated in the Zoning Bylaw as an M2 Industrial District and A1 and A2 Agricultural District, after the hour of 10 o'clock in the evening and before the hour of 7 o'clock in the morning of the next day.
- (b) 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 of a noisy nature, so as to create a noise which may be heard in any residential building between the hours of 10 o'clock in the evening and 7 o'clock in the morning of the next day.
- (c) Where it is deemed impossible or impractical to comply with Subsections 7 (a) or (b), the Director of Public Works and Engineering may give written approval to carry on the work that is found to be necessary at designated hours. The responsibility for obtaining this written approval lies with the person carrying on the work.

Motor Vehicle Noises

- 8. (a) No person shall create loud, unusual or unnecessary noise in the operation of a motor vehicle upon a public street, lane or thoroughfare within the City of North Battleford whether the noise is caused by the mechanical condition of the motor vehicle or the manner which the motor vehicle is operated and whether or not the vehicle is stationary or moving at the time the noise is created.

- (b) No person shall emit or cause such emission of any loud, unusual or unnecessary noise, or noises which annoy, disturb, injure, endanger, or detracts from the comfort, repose, health, peace or safety of others within the City of North Battleford resulting from any of the following acts:
 - (i) The sounding of a motor vehicle signalling device or warning device, or siren, except where required or authorized by this Bylaw.
 - (ii) The operation anywhere other than on a public highway of an engine or motor, in or on any motor vehicle, or vehicles, or item of auxiliary equipment for a continuous period exceeding ten minutes while such is stationary in a residential zone unless:
 - a) The vehicle is in an enclosed structure so as to effectively prevent excessive noise emissions; or
 - b) The operation of such engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to, the operation of ready-mixed concrete trucks, lift platforms or refuse compactors; or
 - c) Weather conditions justify the use of heating or refrigerating systems powered by a motor or engine for the safety and welfare of the operator, passengers or animals, or the preservation of perishable cargo; or
 - d) Prevailing low temperatures make longer idling periods necessary, immediately after starting the motor or engine; or
 - e) The idling is for the purpose of cleaning and flushing the radiator and associated circulation system for seasonal change of anti-freeze, cleaning of the fuel system, carburetor or like, when such work is performed other than for profit.
- (c) No person shall allow the diesel motor on a tractor which pulls a trailer or semi-trailer truck to remain running longer than twenty (20) minutes while the tractor-trailer or tractor alone, is stationary in any residential district or zone or in any other location within 150 metres (500 feet) of a residential zone.

Advertising Noises

- 9. No person shall advertise any event or merchandise 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, 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 a loud noise, unnecessary

noise or unreasonable noise to persons using or frequenting any street or other public place.

Outdoor Public Event

10. (a) No person shall, within the City of North Battleford, operate, maintain or conduct an outdoor public event 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, other than during the following times:
- (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.
- (b) No person shall operate, maintain or conduct an outdoor public event within the City of North Battleford without first obtaining written permission from the City of North Battleford.
- (c) No person shall operate, maintain or conduct an outdoor public event except in accordance with the conditions set out or attached to the written permission obtained from the City of North Battleford.
- (d) The City, may, upon written application, grant permission to extend the hours pursuant to subsection 10(a) during which amplification equipment may be used at an outdoor public event and in exercising its authority, the City may grant its permission with or without conditions.

Exemptions

11. (a) The provisions of this bylaw shall not apply to:
- (i) the reasonable sounding of any bell in a church or other religious establishment;
 - (ii) the reasonable sounding of any bell, siren, whistle or similar device by a school or other educational institution;
 - (iii) the reasonable sounding of any bell, chime or similar device or the use or operation of any musical instrument by a charitable organization soliciting donations;

- (iv) 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;
- (v) the moderate playing of musical instruments appropriate to any religious street service;
- (vi) the sounding of a general or a particular alarm or warning to announce a fire or other emergency or disaster;
- (vii) the sounding of factory whistles and similar devices at normal appropriate times;
- (viii) 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;
- (ix) any use of sound amplification equipment used by the police, fire department or any ambulance service or public service;
- (x) 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 gathering of a similar nature;
- (xi) transit vehicles engaged in normal transit operations;
- (xii) 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 by or on behalf of the City of North Battleford;
- (xiii) the use of any equipment for the repair or maintenance of any public utilities including the public utilities operated by the Saskatchewan Power Corporation, Saskatchewan Energy and Saskatchewan Telecommunications;
- (xiv) 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 Battlefords Agricultural Society;
- (xv) 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;

- (xvi) the sounds caused by removing snow by mechanical means from parking lots used in conjunction with commercial, educational or institutional establishments where the owner or operator of the snow removal equipment has obtained a Snow Removal Permit as set out in attached Schedule "A" to this Bylaw, from the Director of Public Works and Engineering or his designate to operate the snow removal equipment at the designated location.
- (b) Notwithstanding clause 11(a)(xvi), the exemption allowed under the Snow Removal Permit may be revoked by the Director of Public Works and Engineering if provisions of the permit are not adhered to.

Relief from Requirements

- 12. (a) Applications for a permit for relief from the sound levels designated in this Bylaw on the basis of undue hardship may be considered by Council. The application shall be made in writing and must include:
 - (i) the name and address of the applicant;
 - (ii) a description of the source of sound in respect of which exemption is sought;
 - (iii) the period of time for which the exemption is sought;
 - (iv) the reasons why the exemption should be granted;
 - (v) any other information required at that time; and
 - (vi) a statement of the steps, if any, planned or presently being taken to bring about compliance.
- (b) 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.
- (c) Council may, by resolution, revoke such exemption on twenty-four (24) hours written notice to the applicant delivered by ordinary registered mail.

Offences and Penalties

- 13. (a) Every person who contravenes any provision of this Bylaw is guilty of an offence and liable on summary conviction to a fine not less than:
 - (i) \$200.00 in the case of a first offence;
 - (ii) \$300.00 in the case of each and every subsequent offence within a twenty-four (24) hour period;
 - (iii) \$500.00 in the case of any subsequent offence within three (3) months of any previous offence;

and not more than:

- (iv) \$2,000.00 in the case of an individual;
 - (v) \$5,000.00 in the case of a corporation.
- (b) 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.
- (c) 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 North Battleford whether or not any penalty is imposed for the contravention.
- (d) 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.
- (e) A person who fails to comply with an order made pursuant to subsection 13(d) 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.

Severability

14. If a Court of competent jurisdiction should declare any section or part of a section of this Bylaw to be invalid, such section or part of a 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 this Bylaw shall be valid and shall remain in force and effect.

Repeal of Former Bylaw

15. Bylaw No. 1608 is hereby repealed.

Coming into Force

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

INTRODUCED AND READ A FIRST TIME THIS 25th DAY OF NOVEMBER, A.D. 2013.

READ A SECOND TIME THIS 25th DAY OF NOVEMBER, A.D. 2013.

READ A THIRD TIME AND PASSED THIS 25th DAY OF NOVEMBER, A.D. 2013.

MAYOR

CITY CLERK