

BYLAW NO. 2005-1699

**A BYLAW OF THE CITY OF ESTEVAN TO PROVIDE FOR
NOISE CONTROL WITHIN THE CITY**

The Council of The City of Estevan enacts:

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 Estevan 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,
 - (a) “agricultural district” means an agricultural district as established by *The Zoning Bylaw*;
 - (b) “City” means The City of Estevan;
 - (c) “dwelling” means a dwelling within the meaning of *The Zoning Bylaw*;
 - (d) “dwelling unit” means a dwelling unit within the meaning of *The Zoning Bylaw*;
 - (e) “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;
 - (f) “industrial district” means an industrial district as established by *The Zoning Bylaw*;

- (g) “justice” means a judge of the Provincial Court of Saskatchewan or a presiding justice of the peace;
- (h) “motor vehicle” means a motor vehicle within the meaning of *The Highway Traffic Act*;
- (i) “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;
- (j) “permitted premises” means permitted premises within the meaning of *The Alcohol and Gaming Regulation, Act, 1997*;
- (k) “power unit” means a power unit within the meaning of *The Highway Traffic Act*;
- (l) “residential district” means a residential district as established by *The Zoning Bylaw*;
- (m) “semi-trailer” means a semi-trailer within the meaning of *The Highway Traffic Act*;
- (n) “truck” means a truck within the meaning of *The Highway Traffic Act*;
- (o) “Zoning Bylaw” means *The Zoning Bylaw* of The City of Estevan.

Scope

4. (1) This Bylaw applies to the control of all sound originating within the jurisdictional limits of The City of Estevan.
- (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.

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 Prohibition

5. (1) No person shall make, continue, or cause to be made or continued, or suffer or permit to be made or continued:
 - (a) any unreasonably loud or excessive noise;
 - (b) 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
 - (c) any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers of places of business, or as to detrimentally or adversely affect such residences or places of business.

- (2) Factors for determining whether a sound is unreasonably loud or excessive include, but are not limited to, the following:
 - (a) the proximity of the sound to sleeping facilities, whether residential or commercial;
 - (b) the 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.

- (3) 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 that a sound is unreasonably loud or excessive.

Noises Prohibited

6. The following acts are deemed to be violations of this Bylaw *per se*. This enumeration does not constitute an exclusive list:
 - (a) *Lawn Mowers, Snow Blowers and Similar Devices*: In residential districts, the operation of power equipment or machinery used in lawn and garden care or property maintenance including any lawn mower, leaf blower, hedge trimmer, power fan, edge trimmer, line trimmer, roto-tiller, snow blower, compressor, internal combustion engine or similar equipment, between the hours of 10:00 p.m. and 6:00 a.m.
 - (b) *Radios, Televisions, Stereos, Compact Disc Players, Musical Instruments and Similar Devices*: The use or operation of a radio, television, compact disc player, stereo, “boombox”, “ghetto blaster”, musical instrument or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player or operator of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet and comfort of persons residing in the vicinity, including persons residing in separate dwelling units within the building from which the sound emanates.
 - (c) *Idling Trucks*: Within 150 metres of any residential districts, the idling of any truck or power unit or the operation of any motor, “reefer” or similar device on a semi-trailer for more than fifteen (15) minutes.
 - (d) *Engine Brakes*: The use of an engine brake on any motor vehicle driven within the City of Estevan, except in cases of emergency.
 - (e) *Air Horns*: The use of an air horn on any motor vehicle within the City, except in cases of emergency.
 - (f) *Construction or Repair of Buildings*: In all areas of the City except agricultural and industrial districts, the construction, demolition, alteration or repair of any building or structure between the hours of 10:00 p.m. and 6:00 a.m., that produces sound that is plainly audible across the property line of the property from which the sound emanates and is unreasonably loud or excessive. In cases of emergency, construction noises are exempt from this provision.

- (g) *Outdoor Public Events:* The use or operation of a loudspeaker, amplifier, public address system radio, “boombox”, “ghetto blaster”, stereo, musical instrument or similar device that produces, reproduces or amplifies sound at an outdoor public event, other than during the following hours:
 - (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.

If permission has been obtained from the City to extend the hours for the use or operation of amplification equipment at any outdoor public event in accordance with section 8 of this Bylaw, amplification equipment may be used at the event during the extended hours.

- (h) *Permitted Premises:* Any unreasonably loud or excessive noise in a permitted premises or in a patio area which is part of the permitted premises which can be heard in a residential district and which unreasonably disturbs the peace, quiet and comfort of persons in the residential district.
- (i) *Discharge of Firearms:* No person other than a police officer in the regular course of duty, shall discharge a firearm within the City of Estevan.

Exemptions

- 7. Sounds caused by the following are exempt from the prohibitions set out in this Bylaw:
 - (a) The reasonable sounding of any bell by a church or other religious organization.
 - (b) The reasonable sounding of any bell, siren, whistle or similar device by a school or other educational institution.
 - (c) 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.

- (d) A parade for which a permit has been obtained from the City.
- (e) An outdoor political rally, public protest, demonstration, religious service, memorial service or other similar gathering.
- (f) The construction, repair and maintenance of streets, bridges, sidewalks, alleys, water mains, storm sewer mains, sanitary sewer mains, electrical facilities and any other works by or on behalf of The City.
- (g) The annual summer fair and exhibition conducted by the Estevan Exhibition Association.
- (h) snow removal on or near business premises

Extension of Hours for Outdoor Public Events

- 8. (1) The City Manager may, upon written application, grant permission with or without conditions to extend the hours during which amplification equipment may be used at an outdoor public event.

Offences and Penalties

- 9. (1) Every person who contravenes any provision of this Bylaw is guilty of an offence and liable on summary conviction:
 - 9.1.1 for a first offence, to a fine of \$250.00; and
 - 9.1.2 for a second offence, to a fine of \$ 500.00
 - 9.1.3 for a third or subsequent offense, to a fine not less than \$ 750.00 and not more than \$ 10,000
- (b) in the case of a corporation, to a fine not exceeding \$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.
- (3) In default of payment of a fine imposed under either subsection (1) or subsection (2), the individual convicted may be imprisoned for a term of not more than one year.

- (4) (a) Notwithstanding subsection (1) and subsection (2) in the case of a person who contravenes a provision of this Bylaw for the first time, a peace officer may issue a notice of violation to that person;
- (b) The notice of violation shall provide that, if the person pays the City the sum of:
- (i) \$250.00 in the case of a 1st Offense
- within 14 calendar days of the date of the notice of violation, the person shall not be prosecuted for the contravention.
- (c) The fine may be paid:
- (i) in person, during regular office hours, to the cashier located at City Hall, Estevan, Saskatchewan;
- (ii) by deposit, at the depository located at the main entrance to City Hall, Estevan, Saskatchewan; or
- (iii) by mail addressed to the Office of the City Treasurer, City Hall, 1102 – 4th Street, Estevan, Saskatchewan, S7A 0W7.
- (5) Notwithstanding subsection (4), if it is, in the opinion of a peace officer, in the public interest to compel a person who has contravened a provision of this Bylaw for the first time to appear before a justice under this Bylaw, the peace officer may issue a summons that requires the person to appear before a justice without the alternative of paying the specified amount to avoid prosecution.
- (6) If, in the opinion of a prosecutor it is appropriate, the prosecutor may, on or before the court appearance date, permit the person mentioned in subsection (5) to pay the specified amount to avoid prosecution.

Severability

10. A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any provision of this Bylaw shall not affect the validity of the remaining parts of this Bylaw.

Bylaw No. 84-1073 Repealed

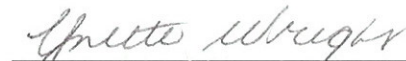
11. Bylaw No. 84-1073 is repealed.

Coming Into Force

12. This Bylaw shall come into force upon final passing thereof.

City of Estevan.


Deputy Mayor



City Clerk

Read a First Time this 24th day of May, 2005.

Read a Second Time this 24th day of May, 2005.

Read a Third and Final Time, approved and adopted for use this 24th day of May, 2005.

This is the original document known as Bylaw 2005-1699 that was given three readings as shown in the Motions 2005-303, 2005-304 and 2005-306 and is hereby annexed to the Council Meeting Minutes.


Yvette Wright
City Clerk


R. Sandy Wilson
Deputy Mayor