



CITY OF MOOSE JAW

Office Consolidation

NOISE BYLAW

Bylaw No. 5488

Date of Passage September 8, 2014
(effective date September 8, 2014)

Including amendments to June 10, 2019

Disclaimer:

This information has been provided solely for research convenience. Official bylaws are available at the Office of the City Clerk and must be consulted for purposes of interpretation and application of the law.

This Bylaw has been consolidated under the authority of the City Clerk. It represents proof, in absence of evidence to the contrary of:

- (a) the original bylaw and of all bylaws amending it; and
- (b) the fact of passage of the original and all amending bylaws.

AMENDMENTS

DATE PASSED

FORCE/EFFECT

Bylaw No. 5580

June 10, 2019

June 10, 2019

BYLAW NO. 5488

NOISE BYLAW, 2014

THE COUNCIL OF THE CITY OF MOOSE JAW ENACTS AS FOLLOWS:

Short Title

1 This Bylaw may be cited as the Noise Bylaw.

Purpose

2 Pursuant to Section 8 of *The Cities Act*, the purpose of this Bylaw is to provide for the abatement of nuisances caused by activities that:

- (a) affect or may affect the safety, health and welfare of people in a neighbourhood; or
- (b) affect or may affect the amenity of a neighbourhood.

Definitions

3 In this Bylaw:

- (a) **“approved sound meter”** means an instrument calibrated to measure levels of sound pressure in decibels, which meets the applicable American National Standards Institute, S1.4-1983(R2006), the International Electro-Technical Council Standard No. 123, or the British Standard No. 3539 Part 1, or the U.S.A. Standard S1.4-1961;
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- (b) **“City”** means the City of Moose Jaw or the area contained within the boundaries of the City of Moose Jaw as the context requires;
- (c) **“commercial premises”** means any lands, buildings, or units which have been approved for use as a business or commercial operation in accordance with the Zoning Bylaw;
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- (d) **“Council”** means the Council of the City of Moose Jaw;
- (e) **“dB(A)”** means the sound pressure level in decibels measured using “A” weighting network setting of an approved sound meter and with slow response;
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- (f) **“dwelling unit”** means a dwelling unit within the meaning of the Zoning Bylaw;
- (g) **“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;
- (h) **“highway”** means a highway within the meaning of *The Traffic Safety Act*, SS 2004, c T-18.1;
- (i) **“holiday”** means New Year’s Day, Family Day, Good Friday, Victoria Day, Canada Day, Saskatchewan Day, Labour Day, Thanksgiving Day, Remembrance Day, Christmas Day and Boxing Day, and when one of those dates, other than Remembrance Day and Boxing Day, falls on a Sunday, it includes the following day; and any holiday proclaimed as such by the Council of the City of Moose Jaw;
- (j) **“Inspector”** means the same individuals designated as Peace Officer in *The Summary Offences Procedure Act*, SS 1990-91, c S-63.1;
- (k) **“motor vehicle”** means a motor vehicle within the meaning of *The Traffic Safety Act*, SS 2004, c T-18.1;
- (l) **“occupant”** means a person who is the owner, occupant or licensee of a premises or any person found on the premises at or around the time when the noise or sound emanates from the premises;
- (m) **“outdoor public event”** means concerts, sporting events, festivals, attraction or similar events, whether on private or public property to which the public at large is invited or admitted;
- (n) **“party wall”** means a wall jointly owned and jointly used by 2 parties under easement agreement or by right in law, and erected at or upon a line separating 2 parcels of land each of which is, or is capable of being, a separate real-estate entity;
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- (o) **“point of reception”** means:
 - (i) a point in any dwelling unit which is in the same building or with which such dwelling unit shares a common wall or party wall or wall that is flush to a wall of the commercial premises;
 - (ii) at least 1.2 meters above the surface of the ground.
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- (p) **“premises”** means a parcel of land and any buildings thereon, except

where a building contains more than one dwelling unit, then “premises” means a single dwelling unit;

- (q) **“residential district”** means those areas of the City classified as residential districts in the Zoning Bylaw;
- (r) **“semi-trailer”** means a semi-trailer within the meaning of *The Traffic Safety Act*, SS 2004, c T-18.1;
- (s) **“signalling device”** means a horn, bell, siren or other device producing an audible sound for the purpose of drawing people's attention to an approaching vehicle, including a bicycle;
- (t) **“truck”** means a truck within the meaning of *The Traffic Safety Act*, SS 2004, c T-18.1;
- (u) **“vehicle”** means a vehicle within the meaning of *The Traffic Safety Act*, SS 2004, c T-18.1; and
- (v) **“Zoning Bylaw”** means the City of Moose Jaw Zoning Bylaw, being Bylaw No. 5346.

General Prohibition

- 4(1) Except as may be authorized under this Bylaw, no person shall make, continue, permit, or cause to be made, continued or permitted, a noise that:
 - (a) is unreasonably or unnecessarily loud; or
 - (b) unreasonably annoys, disturbs, injures, endangers or distracts from the comfort, repose, health, peace or safety of other persons within the City's limits.
- (2) Whether a noise or sound is unreasonably or unnecessarily loud is a question of fact to be determined by a court of competent jurisdiction which hears a prosecution of an offence against this Bylaw. In determining whether a noise or sound is unreasonably or unnecessarily loud, consideration may be given, but is not limited to:
 - (a) the nature of the activity of persons being disturbed;
 - (b) the land use, nature and zoning of the area from which the sound emanates and the area where it is received;

- (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; and
- (g) whether the sound is recurrent, intermittent or constant.
- (h) the decibel level, if measured.

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(3) In the absence of other evidence, or by way of corroboration of other evidence, the court may infer from the evidence of an Inspector relating to the conduct of a person or persons, whether ascertained or not, that any loud, unnecessary or unreasonable noise:

- (a) occurred; and
- (b) 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 2(1)(b).

(4) A certificate issued by the manufacturer of a sound level meter shall be admitted into evidence as prima facie proof the meter meets the applicable standard set out in Section 3(a).

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(5) A person may be found guilty of a contravention of this section whether or not the decibel level:

- (i) is measured; or
- (ii) if measured, exceeds any limit prescribed by this bylaw.

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Commercial Noise

5 Without limiting the generality of Section 4, if dwelling units are in the same building as commercial premises or share a common wall or party wall with commercial premises, or if a wall of dwelling units and a wall of commercial premises are flush against one another, then a person in such commercial premises must not make, cause, or permit to be made or caused continuous or non-continuous sound of a radio, television, player or other sound playback device, public address system, or any other music or voice amplification

equipment, musical instrument, whether recorded or live, whether amplified or not, the level of which:

- (a) between the hours of 7:00 a.m. and 10:00 p.m., exceeds a rating of 70dB(A); or
- (b) anytime not included in (a), exceeds a rating of 60dB(A).

when measured on an approved sound meter for a cumulative period of not more than 10 minutes in any 30 minutes, at the point of reception.

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Domestic Noise

6 Between the hours of 10:00 p.m. and 7:00 a.m., no person shall operate or allow to be operated in a residential district:

- (a) a lawn mower of any kind;
- (b) a snow clearing machine powered by an engine of any type;
- (c) a rototilling machine of any kind; or,
- (d) any other machine or device of a similar or like nature that is powered by an internal combustion engine or an electrical motor.

7 No person who owns, has the care or control of, keeps, houses or harbours any animal or bird, shall allow the animal to excessively bark, whine, cry, howl or make any sound that unduly disturbs the peace, quiet, rest or tranquillity of the neighbourhood or the public at large.

8 No owner or occupant of a premises in a residential district shall operate or permit or allow to be operated, or play or allow to be played, any instrument, equipment or device that produces, reproduces or amplifies sound, such that the noise or sound can be easily heard by a person who is not in or on the same premises, or by a person residing in a separate dwelling unit within the building from which the sound emanates.

Construction Noise

9 Except in the case of an emergency, between the hours of 10:00 p.m. and 7:00 a.m. no person shall produce a sound, through the construction, erection, demolition, alteration, or repair of any type of building or structure, that is audible outside the parcel from which the noise emanates, except for any Commercial, Industrial or Railway areas under the Zoning Bylaw and where commercial operations exist within a Community Service/Institutional Zoning District as classified under the Zoning Bylaw.

- 10 Between the hours of 10:00 p.m. and 7:00 a.m. no person shall operate or allow to be operated any tool, device, machine or equipment capable of creating a sound that can be heard in any residential dwelling unit.
- 11 Where it is impossible or impractical to comply with section 8 and/or 9, the City Manager or the Director of Engineering Services in exigent circumstances, or Council in all other circumstances, may give written approval to carry on the work that is found to be necessary at designated hours. Responsibility for obtaining written approval lies with the person carrying on the work.

Advertising Noise

- 12 No person shall advertise any event or merchandise with amplified sounds in any part of the City designated as a residential district.

Motor Vehicle Noise

- 13 No person shall create loud, unreasonable or unnecessary noise in the operation of a motor vehicle upon a public street, lane or thoroughfare within the City 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.
- 14 No person shall cause any loud, unreasonable 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 resulting from any of the following acts:
 - (a) the sounding of a motor vehicle signalling device or warning device, or siren, except where required or authorized by this Bylaw;
 - (b) the operation anywhere other than on a highway of an engine or motor, in or on any motor vehicle, or vehicles, or items of auxiliary equipment for a continuous period exceeding twenty (20) minutes while such is stationary in a residential district unless:
 - i. the vehicle is in an enclosed structure so as to effectively prevent excessive noise emissions;
 - ii. 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 a ready-mix concrete truck, lift platforms or refuse compactors;

- iii. 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;
 - iv. prevailing low temperatures make longer idling periods necessary, immediately after starting the motor or engine; or
 - v. 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, carburettor or like, when such work is performed other than for profit;
- (c) no person shall allow the diesel motor on a truck 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 in any other location within one hundred fifty (150) meters (500 feet) of a residential district.

15 No person shall engage, operate, apply or otherwise use an engine brake on any vehicle while being driven within the City except in an emergency where it is necessary in the circumstances to do so.

Outdoor Public Event

16(1) No person shall, within the City, operate, maintain or conduct an outdoor public event which produces, reproduces or amplifies sound in such a manner as to create an unreasonable 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 between the hours of 7:00 a.m. and 10:00 p.m.

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(2) The City Manager, Director of Engineering Services or Council, may, upon written application, grant permission to extend the hours pursuant to subsection (1) during which amplification equipment may be used at an outdoor public event and in exercising its authority, permission may be granted with or without conditions.

Exceptions

17 (1) Notwithstanding any of the provisions of this Bylaw, this Bylaw does not apply to noise resulting from:

- (a) the ringing of bells in churches, religious establishments and schools;

- (b) the moderate use of musical instruments for a charitable or religious undertaking;
 - (c) a parade for which a permit has been obtained from the City;
 - (d) the sounding of a general or a particular alarm or warning to announce a fire or other emergency or disaster;
 - (e) the sounding of whistles, sirens, signalling or sound amplification equipment or device used by the police, fire department, an emergency service or public service;
 - (f) 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 sizeable space in connection with any lawful public gatherings of a similar nature;
 - (g) transit vehicles engaged in normal transit operations;
 - (h) the use of any tractors, trucks or other equipment for snow removal, snow clearing or sanding of streets; the construction, repair and maintenance of any municipal works or utilities, or any other public utility; or any other works by or on behalf of the City;
 - (i) the use of any equipment for the repair or maintenance of any public utilities including the public utilities operated by or on behalf of the Saskatchewan Power Corporation, Saskatchewan Energy Corporation and Saskatchewan Telecommunications;
 - (j) 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 or activity in any City owned sports arena or building, public park or any other public place where such sporting event or activity may be lawfully carried on;
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- (k) the activities of the Moose Jaw Exhibition Company during the period of the annual exhibition; and
 - (l) the sounds caused by removing snow by mechanical means from parking lots used in any Commercial, Industrial or Railway areas under the Zoning Bylaw and where commercial operations exist within a Community Service/Institutional Zoning District as classified under the

Zoning Bylaw.

- (2) Notwithstanding any of the provisions of this Bylaw, this Bylaw does not apply to any person who emits or causes the emission of noise in connection with any life-saving duty, or responsibility or any person acting in an emergency situation.

Relief from Requirements

18 (1) 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:

- (a) the name and address of the applicant;
- (b) a description of the source of sound in respect of which exemption is sought;
- (c) the period of time for which the exemption is sought;
- (d) the reasons why the exemption should be granted;
- (e) the other information required at that time; and
- (f) a statement of steps, if any, planned or presently being taken to bring about compliance.

- (2) 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 effect and may contain such terms and conditions as Council sees fit.

Offences and Penalties

19 (1) Inspectors shall be granted the authority to administer and enforce the provisions of this Bylaw.

- (2) The persons designated as Inspectors may represent the City before the Committee, a justice of the peace or provincial court judge in the prosecution of anyone who is charged with a contravention of any bylaw of the City.
- (3) Inspectors are entitled, while performing the duties of their office, to all the protection to which peace officers are entitled pursuant to the *Criminal Code of Canada*.

- 20 (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) \$150.00, in the case of a first offence; and
 - (b) \$300.00, in the case of any subsequent offence;
- and not more than:
- (c) \$2,000.00.
- (2) Every corporation 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) \$300.00, in the case of a first offence; and
 - (b) \$600.00, in the case of any subsequent offence;
- and not more than:
- (c) \$5,000.00.
- (3) The court may, in default of payment, order imprisonment of an individual or director of a corporation for a term not exceeding ninety (90) days, or until the fine is paid, whichever is earlier.
- (4) In addition to any fine imposed under this Bylaw, the court may order the person to comply with the Bylaw within a specified period, and undertake any work necessary to remedy the contravention.
- (5) A person who fails to comply with an order made pursuant to subsection (4) within the time specified by the court is guilty of an offence and liable on summary conviction to a fine of not more than \$250 for each day during which the failure continues or to imprisonment for a term of not more than ninety (90) days, or both.

Severability

- 21 If any section, subsection or other portion of this Bylaw is, for any reason, found to be invalid or unconstitutional by any Court of competent jurisdiction, that portion of the bylaw shall be deemed to be a separate, distinct and independent provision and such finding of the Court shall not affect the validity of the remaining portions of the Bylaw.

Repeal and Coming into Force

22 The following bylaws are repealed:

- (1) Bylaw No. 4922; and
- (2) Bylaw No. 5449.

23 This Bylaw comes into force and effect upon its passage.

READ A FIRST TIME SEPTEMBER 8, 2014

READ A SECOND TIME SEPTEMBER 8, 2014

READ A THIRD TIME AND PASSED SEPTEMBER 8, 2014

"D. Higgins
MAYOR

"Myron Gulka-Tiechko
CITY CLERK