

NOISE BYLAW

TOWN OF NAICAM

BYLAW NO. 06-2019

Pursuant to *The Municipalities Act*, the Council of the Town of Naicam, in the Province of Saskatchewan, 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 Town of Naicam 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, including this section:
 - a) “Administrator” means the Administrator or Chief Administrative Officer (CAO) of the Town of Naicam or delegate;
 - b) “Bylaw Enforcement Officer” means any person appointed by the Council or delegated by Administration to enforce the provisions of this bylaw;
 - c) “Commercial” means a private or public Premises within a commercial district as established by the Zoning Bylaw;
 - d) “Council” means the Council of the Town of Naicam;
 - e) “Dwelling” means a dwelling unit within the meaning of the Zoning Bylaw;
 - f) “Emergency Vehicle” means a motor vehicle used in response to a public catastrophe or to protect persons or property from imminent danger;
 - g) “Emergency” means a public catastrophe, imminent danger or threat to persons, property, public utilities, roadways or public facilities as may be determined or declared by the Town or authorized persons or representative thereof.
 - h) “Engine Brake” means a device used in trucks and semi-trailer units to slow or brake the said vehicle by means of closing the exhaust valves on the engines of the said vehicles, or any similar device;
 - i) “Holiday” means any statutory holiday as defined in *The Interpretation Act*, and amendments thereto, or any holiday as recognized as such by the federal or provincial governments or any holiday proclaimed as such by the Council of the Town of Naicam;
 - j) “Industrial” means any Premises within an industrial district as established by the Zoning Bylaw;
 - k) “Justice” means a judge of the Provincial Court of Saskatchewan or a presiding justice of the peace;
 - l) “Motor Vehicle” means motor vehicle or motorcycle as defined in *The Traffic Safety Act*;
 - m) “Notice” means a notice that is used to give notice that the bylaw has been contravened;
 - n) “Occupant” means a person who is the owner, resident, 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;
 - o) “Premises” shall mean the area contained within the boundaries of any lot or property and includes any building or Dwelling situated within such boundaries.

- p) "Residential District" means a residential districts as established by the Zoning Bylaw;
- q) "Town" means the corporation of the Town of Naicam in the Province of Saskatchewan.
- r) "Weekday" means any day other than a Saturday, Sunday or Holiday;
- s) "Weekend" means a Saturday or Sunday and may include a Holiday;
- t) "Zoning Bylaw" mean The Zoning Bylaw of the Town of Naicam.

SCOPE

- 4. This Bylaw applies to the control of all sound originating within the jurisdictional limits of the Town of Naicam.
- 5. 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 or Premises.

EXCEPTIONS

- 6. The provisions of this Bylaw are not intended to apply to:
 - a) the ordinary and usual sounds and noises incidental to the occupation and use of property and the activities of persons in the Town, 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
 - b) the regular or Emergency activities and actions of Town staff performing maintenance functions including but not limited to snow removal are not intended to be subject to the provisions of this Bylaw.
 - c) the ringing of bells in churches, religious establishments and schools;
 - d) 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;
 - e) 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 the Town.
 - f) an outdoor political rally, public protest, demonstration, religious service, memorial service or other similar gathering.
 - g) the sounding of a general or a particular alarm or warning to announce a fire or other Emergency or disaster;
 - h) the sounding of sirens or beeping on any vehicle used by the police or fire department or on any ambulance or public service or Emergency Vehicle;
 - i) any use of sound amplification equipment used by the police, fire department or any ambulance service or public service;
 - j) 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 reasonable gathering;
 - 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 a crown corporation;
 - 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 Town of Naicam;
 - 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.

7. The Administrator, or Council by resolution, may exempt from the provisions of this Bylaw the noises made by any person, firm or corporation in the lawful operation of an Agricultural, Industrial or Commercial business or undertaking or other business or undertaking by issuing a written permit noting specifically to whom the exemption is made and under what conditions or limitations.

GENERAL PROHIBITION

8. 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 Town; 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 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.
9. 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, as per the Zoning Bylaw, 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.
10. In the absence of other evidence, or by way of corroboration of other evidence, a Justice may infer from the evidence of a Bylaw Enforcement Officer relating to the conduct of a person or persons that a sound is unreasonably loud or excessive.
11. Without restricting the generality of this bylaw no person shall operate or allow to be operated 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, or a model aircraft driven by an internal combustion engine in any Residential District between the hours of;
 - a) 10:00 pm and 7:00 am on Weekdays;
 - b) 11:00 pm and 8:00 am on Weekends or Holidays;
12. 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 or played any radio, phonograph, 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.
13. For regulations and enforcement of noise made by animals please refer to the Town of Naicam's Animal Control Bylaw.

CONSTRUCTION NOISES

14. Except in an Emergency, or other circumstance as may be exempted elsewhere within this bylaw, no person or corporation or entity shall carry on the construction erection, demolition, alteration or repair of any type of building or structure or similar activity 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 Residential Dwelling or Premises between the hours of:

- a) 10:00 pm and 7:00 am on Weekdays;
- b) 11:00 pm and 8:00 am on Weekends or Holidays;

ADVERTISING NOISES

15. 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 or is audible to persons using or frequenting any street or other public place.

MOTOR VEHICLES

16. Without limiting the generality of this bylaw, for the purpose of regulating motor vehicle noise, the following provisions shall apply:
- a) no person shall operate a motor vehicle in such a manner that it makes, continues, causes to be made or continues or suffers or permits to be made or continued any unreasonably loud or excessive noise;
 - b) in determining whether the noise from a motor vehicle is unreasonably loud or excessive, a Bylaw Enforcement Officer or Justice may consider any of the factors mentioned in Section 7;
 - c) the use of an Engine Brake on any motor vehicle driven within the Town of Naicam except in cases of Emergency is prohibited;
 - d) the idling of any bus, truck or power unit or the operation of any motor, "reefer" or similar device on a semi-trailer for more than thirty (30) minutes in a Residential district.

INVESTIGATION PERMITTED

17. The operator of any motor vehicle shall, upon the request of a bylaw enforcement, peace or police officer, take the motor vehicle to any site designated by the aforementioned officer and have the motor vehicle tested for sound.
18. A bylaw enforcement, peace or police officer may enter onto a property or premises for the purpose of investigation of a complaint or issuing of a Notice.

FAILURE TO COMPLY WITH THE REQUEST OF AN OFFICER

19. It shall be an offence for the operator of any motor vehicle to refuse to take the motor vehicle to any site designated by a bylaw enforcement, peace or police officer and have the motor vehicle tested for sound when requested by the officer.
20. It shall be offence for any person to interfere with a bylaw enforcement, peace or police officer in the pursuit of their duties and enforcement under this bylaw.

PENALTIES

21. Except as provided for elsewhere in this bylaw, any person who contravenes any provision of this Bylaw is guilty of an offence on each occurrence and is liable on summary conviction:
- a) In the case of an individual to a fine not less than:
 - i) \$200 for a first offence;
 - ii) \$500 for each subsequent offence; and
 - iii) \$1,000 in the case of a continuing offence to a further fine of \$1000 for each day the offence continues.
 - b) In the case of a corporation or business, to a fine not less than:
 - i) \$500 for a first offence;

ii) \$800 for each subsequent offence; and

iii) \$2,000 in the case of a continuing offence to a further fine of \$2,000 for each day the offence continues.

22. In default of payment of a fine imposed under either Section 21, the individual convicted may be imprisoned for a term of not more than three months.

23. Notwithstanding Section 22 in the case of a person, individual, corporation or business who contravenes a provision of this Bylaw for the first time, a Bylaw Enforcement Officer may issue a Notice of Violation.

a) The Notice of Violation shall provide that, if the person makes a voluntary payment to the Town of the sum of:

i) \$100.00 in the case of an individual; or

ii) \$250.00 in the case of a business or corporation;

within 14 calendar days of the date of the Notice of violation, the person shall not be prosecuted for the contravention.

24. The fine may be paid:

a) in person, during regular office hours at the Town Office in Naicam, Saskatchewan;

b) by deposit, in the depository slot located at the main entrance to Town Office in Naicam, Saskatchewan; or

c) by mail addressed to own of Naicam, Box 238, Naicam, SK S0K 2Z0

d) by other payment methods accepted at the time by the Town.

25. Notwithstanding Section 23, if it is, in the opinion of a bylaw enforcement 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 Bylaw Enforcement Officer may issue a summons that requires the person to appear before a Justice without the alternative of paying the specified amount voluntarily to avoid prosecution.

26. The prosecutor may, on or before the court appearance date, permit the violator to pay the specified amount to avoid prosecution.

27. A Bylaw Enforcement Officer or Administrator may issue a Notice of violation either in person, or via registered mail. The Notice is considered to have been received within five (5) days of the date of mailing.

SURVIVABILITY

28. 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.

BYLAWS REPEALED

29. Bylaws No. 13-86 and 11/95 are repealed.

COMING INTO FORCE

30. This Bylaw shall come into force and take effect when adopted by Council.

Read a third time and adopted this 8th day of October, 2019.





MAYOR


ADMINISTRATOR

Certified a true copy of Bylaw 2019-006

Passed by the Town of Naicam Council on October 8, 2019


Chief Administrative Officer