

TOWN OF ESTERHAZY

BYLAW NO. 744-17

A BYLAW OF THE TOWN OF ESTERHAZY TO CONTROL AND REGULATE NOISE

THE COUNCIL of the Town of Esterhazy in the Province of Saskatchewan, subject to *The Municipalities Act* enacts as follows:

1. This bylaw may be referred to as the "Noise Bylaw".
2. Unless otherwise provided all words and expressions used herein shall have the same meaning given them in the Municipalities Act.
3. For the purpose of this bylaw:
 - a. "Town" means the corporation of the Town of Esterhazy and the area contained within the boundaries of the Town of Esterhazy, as the context requires;
 - b. "council" means the Council of the Town of Esterhazy;
 - c. "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 Town of Esterhazy;
 - d. "motor vehicle" means any vehicle propelled by any power other than muscular power except motorcycles, aircraft or a motor vehicle that runs only upon rails;
 - e. "motorcycle" means a vehicle that is propelled or driven by any means other than by muscular power, has two or three wheels, is designed for use on a highway, and does not have a cab for the driver;
 - f. "occupant" shall mean the owner, occupant or licensee of the premises or any person found on the premises at or around the time when the noise or sound issues from the premises;
 - g. "person" includes a corporation, partnership, association or society;
 - h. "premises" shall mean the area contained within the boundaries of any lot and includes any building situated within such boundaries; provided, however, that where any building contains more than one dwelling unit each dwelling unit, or common area of such building and the land surrounding the building within the boundaries of the lot shall be deemed to be separate premises;
 - k. "public property" means any highway, parkland, public bridge, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not; and includes any open space to which the public has or is permitted to have access, whether on pavement or otherwise, that is owned by the Town of Esterhazy;
 - l. "residential district" means a district defined as such in the Zoning Bylaw enacted by the Council of the Town of Esterhazy and amendments thereto;
 - m. "semi-trailer" means a vehicle that is at any time drawn on a highway by motor vehicle and that is designed for the conveyance of goods or as living quarters for persons and so that its weight and the weight of its load is carried partly on its own axles and partly on another vehicle;
 - n. "signaling device" means a horn, gong, bell, klaxon, siren or other device producing an audible sound for the purpose of drawing people's attention to an approaching vehicle, including a bicycle;
 - o. "truck" means a motor vehicle that is designed for the conveyance of goods, equipped with a lifting device; or on which any machinery is permanently mounted;
 - p. "weekday" means any day other than a Sunday or holiday.

GENERAL PROHIBITION

3. Except as may be authorized under this bylaw:

- a. No person shall make, cause or permit any noise or sound on private or public property that unreasonably disturbs, or is likely to disturb the quiet, peace, rest, enjoyment, comfort or convenience of persons in the neighbourhood or vicinity.
 - b. No person owning or controlling premises shall permit the use and occupation of those premises in a way that makes or causes any noise or sound that unreasonably disturbs or is likely to disturb the quiet, peace, rest, enjoyment, comfort or convenience of persons in the neighbourhood or vicinity.
4. In determining whether a noise or sound unreasonably disturbs or is likely to disturb the quiet, peace, rest, enjoyment, comfort or convenience of persons in the neighbourhood or vicinity, consideration may be given but is not limited to the:
- a. type, volume and duration of the sound;
 - b. time of day and of the week;
 - c. nature and use of the surrounding area; and
 - d. the nature of the activity of persons being disturbed.

DOMESTIC NOISES

5. Without restricting the generality of Section 3, no person shall operate or allow to be operated a lawn mower or leaf blower or a snow clearing device, powered by an engine of any type or a model aircraft driven by an internal combustion engine in any residential district between the hours of 11:00 o'clock in the evening and 6:30 o'clock of the next forenoon on weekdays and 11:00 o'clock in the evening and 7:30 o'clock in the forenoon of the following day which is a Sunday and holiday.
6. No person being the owner or occupant of any premises shall cause, allow or permit the sound of a howling, wailing or barking dog or the caterwauling of a cat or the cry of an animal or bird which can be heard by a person not on the same premises and which unreasonably disturbs or is likely to disturb the quiet, peace, rest, enjoyment, comfort or convenience of that person.
7. 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, television set, musical instrument, or any other apparatus, appliance, device or machine used for the promotion or amplification of sound, either in or on private or public property in a location within or the immediate proximity of 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 emanated, and which unreasonably disturbs or is likely to disturb the quiet, peace, rest, enjoyment, comfort or convenience of that person.

CONSTRUCTION NOISES

8. 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 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 jackhammer or pneumatic drill, a tractor or bulldozer or any other tools, device or machine of a noisy nature, so as to create a noise which may be heard in any residence between the hours of 11:00 o'clock in the evening and 6:30 o'clock of the next forenoon on weekdays and 11:00 o'clock in the evening and 7:30 o'clock in the forenoon of the following day which is a Sunday or holiday.

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 loudspeakers 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.

DIESEL MOTORS

10. No person shall allow the diesel motor on a tractor which pulls a trailer or on a semi-trailer truck, or any other truck, to remain running for longer than 30 minutes while the tractor trailer, or tractor alone, or truck, is stationary in a residential district.
11. Except as provided under Section 10 hereof, no person shall allow the diesel motor of any motor vehicle to remain running for longer than 30 minutes while the motor vehicle is stationary in a residential district.

EXEMPTIONS

12. The provisions of this bylaw shall not apply to:
 - a. the ringing of bells in churches, religious establishments and schools;
 - b. 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;
 - c. 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 Council pursuant to the provision of the Traffic Bylaw;
 - d. the moderate playing of musical instruments appropriate to any religious street service;
 - e. the sounding of a general or a particular alarm or warning to announce a fire or other emergency or disaster;
 - f. the sounding of a factory whistle and similar devices at normal appropriate times;
 - g. 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;
 - h. any use of sound amplification equipment used by the police, fire department or any ambulance service or public service;
 - i. 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;
 - j. transit vehicles engaged in normal transit operations;
 - k. the use of any tractors, trucks, or other equipment used in the repair of streets or the repair and maintenance of any municipal works or utilities;
 - l. the use of equipment for cleaning or clearing streets including street sweepers and equipment for snow removal, snow clearing or sanding streets;
 - m. 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 Corporation and Saskatchewan Telecommunications;
 - n. the sounds caused by a person, animal, machine or by any other means during the carrying on or operation of any lawfully authorized sporting event in any in any sports

arena or building, public park or any other public place where such sporting event may be lawfully carried on.

GENERAL REGULATIONS

13. Notwithstanding any other provision of this bylaw:
- a. a person may perform works of an emergency nature for the preservation or protection of life, health or property but the onus shall be on the person performing the work to show cause that the work was of an emergency nature;
 - b. a person may apply for and receive from the Town a permit for a special event, which in the Town Council's opinion is in the public interest, in which case the requirements of this bylaw may be waived;
 - c. Town Council may grant exemptions to this bylaw upon application as it may consider to be in the public interest.

INTERPRETATION

14. Any exceptions or exemptions as may be provided under this bylaw are not to be interpreted so as to create vagueness or uncertainty as to the standard by which noise is measured under the prohibiting sections of this bylaw.

OFFENCES AND PENALTIES

15. Any person who contravenes any provision of this bylaw is guilty of an offence and liable on summary conviction as outlined in the General Penalty Bylaw No. 670-12

SEVERABILITY

16. Each provision of this bylaw is independent of all other provisions. If any provision is declared invalid by a court of competent jurisdiction, all other provisions of this bylaw will remain valid and enforceable.

REPEAL

17. Bylaws 455-90 and 726-15 are hereby repealed.


COMING INTO FORCE

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




Mayor


Chief Administrative Officer

CERTIFIED a true copy of the original.
Dated this 13 day of April, 2017

Signature