

# Town of Kipling Bylaw 9-2010

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## BYLAW TO REGULATE NOISE WITHIN THE LIMITS OF THE TOWN OF KIPLING

**WHEREAS** Section 128 of the Urban Municipality Act provides:

A Council may, by Bylaw

- (a) Prohibit, regulate or abate noise from whatever source, on any public or private place, and, without restricting the generality of the foregoing, may establish permissible noise levels or may provide that no one shall make any unnecessary or unreasonable noise for all or varying periods of the day within the Urban Municipality or within any specified area of the Urban Municipality;
- (b) Prohibit and regulate the use of loudspeakers or other devices for the amplification of sound on any street or other public or private place or in any building. 1983-84, C.U-11, s.128

**THEREFORE**, the Council of the Town of Kipling, in the Province of Saskatchewan, enacts as follows:

1. This Bylaw may be cited as "The Noise Bylaw"
2. (a) In this Bylaw:
  - (i) "Emergency" includes but is not restricted to work carried out to preserve, protect or repair property that is in imminent danger to the health or safety of any person or that will fall into further disrepair or collapse without immediate work;
  - (ii) "Holiday" means any statutory holiday as defined in The Interpretation Act or any holiday proclaimed as such by the Council of the Town;
  - (iii) "Premises" means 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;
  - (iv) "Town" means the Town of Kipling or the land and area within the boundaries or jurisdiction of the Town of Kipling.

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## 3. DEFINING SECTION

(1) Without restricting the generality hereof, a noise is loud or unusual or unnecessary if the noise is persistent and can easily be heard by an individual or member of the public who is not on the same premises from which the noise emanates or if the noise from a street, or other public place can be easily heard from within a residence or place of work or business or otherwise annoys, disturbs, injures, endangers or detracts from the comfort, repose, peace or safety of other persons within the Town.

(2) In the absence of other evidence, or by way of corroboration of other evidence, the court may infer from the evidence of a peace officer relating to the conduct of other persons, whether ascertained or not, that a noise annoyed, disturbed any person or detracted from the comfort, repose, peace or safety of any person within the Town.

## 4. GENERAL PROHIBITION

(1) Except as may be otherwise provided by this bylaw or any superseding legislation, no person shall make, cause, allow, suffer or permit to be made or continue to make, cause, allow, suffer or permit to continue to be made any loud or unusual noise.

(2) (i) Without detracting from the generality of section 4(1), offences under this Bylaw include but are not restricted to the following specific offences.

(ii) No person who owns keeps or harbours a dog or who is the owner or occupant of a premise on which a dog is kept shall allow such dog to continue to bark or howl thereby creating a loud or unusual or unnecessary noise.

(iii) No person, being the owner or occupant of any premise shall operate or permit or suffer or allow to be operated, play or allow to be played any radio, phonograph, record player, tape, records, television, musical instrument or any other appliance, device or machine used for the production or amplification of sound either in or on a premises or in a public place hereby creating a loud or unusual noise.

(iv) No person shall operate or allow to be operated a lawn mower or snow cleaning device or a model aircraft or model car powered by an engine of any kind in any residential district before the hour of 7 o'clock in the morning or after the hour of 11 o'clock in the evening.

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## CONSTRUCTION NOISE

(v) Except in an emergency, no person shall carry on the construction, erection, demolition or repair of any type or in any building or structure or on any premise by hammering, sawing, drilling or using any type or kind of tool or power tool or equipment that creates a noise easily heard beyond the boundaries of the site where the work is being carried on except if the construction is being carried on in a site designated in the Zoning Bylaw of the Town as within an Industrial District between the hours of 11 o'clock in the evening and 7 o'clock in the morning.

(vi) 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 drag line, an air or steam compressor, a jack-hammer or pneumatic drill, a tractor or bulldozer or any other tool, device or machine, so as to create noise which may be heard in any residence between the hours of 11 o'clock in the evening and 7 o'clock in the morning.

(vii) No person shall advertise any event or merchandise by ringing bells, blowing whistles, calling loudly, playing music, playing any type of musical instrument, or by the use of loud speakers or other devices for the amplification of sound, or by any 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 public place.

## EXCEPTIONS

5. 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;

(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 used in connection with any parade;

(d) The moderate playing of musical instruments appropriate to any religious street service;

(e) The sounding of factory whistles and similar devices at normal appropriate times;

(f) The sounding of a general or a particular alarm or warning to announce a fire or other emergency disaster;

(g) The sounding of police whistles or the sirens on any vehicle used by the police or fire department or any ambulance or public service vehicle;

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- (h) Any use of sound amplification equipment used by the police, fire department or any ambulance service or public service, including any department of the Town;
- (i) The use in a reasonable manner of any apparatus or mechanism for the amplification of the human voice 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 operations;
- (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 the Saskatchewan Power Corporation and Saskatchewan Telecommunications, and the Town.

### **COUNCIL DISCRETION**

- 6. At the discretion of Council upon application, the Council may, by resolution, grant an exemption to any person or organization from any of the provisions of this bylaw with respect to any source of sound.
- 7. Any person who contravenes any provision of this Bylaw is guilty of an offence and is liable on summary conviction to a maximum fine of Fifty (\$50.00) dollars and a maximum fine not in excess of Five Hundred (\$500.00) Dollars or, in default of payment of the fine, to imprisonment for a period not exceeding 30 days.

### **PENALTY CLAUSE FOR VOLUNTARY PAYMENT**

No person shall:

- a) Fail to comply with an order made pursuant to this Bylaw;
- b) Obstruct or interfere with any Designated Officer or any other person acting under the authority of this Bylaw; or
- c) Fail to comply with any other provision of this Bylaw

Where the Designated Officer believes that a person has contravened any provision of this Bylaw, he may serve upon such person a Bylaw Violation Notice as provided by this section either personally or by mailing or leaving same at his last known address and such service shall be adequate for the purpose of this Bylaw.

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Such notice shall be deemed to have been served:

- a) On the expiration of twenty-four hours after it is posted, if the notice is mailed
- b) On the day of actual delivery, if the notice is served personally; or
- c) On the business day following the transmission, if given by facsimile

A Bylaw Violation Notice shall be in such form as determined in Schedule A and shall state the section of the Bylaw, which was contravened, and the amount, pursuant to The Town of Kipling General Penalty, Enforcement and Voluntary Payment of Fines Bylaw shall be accepted by the Municipality in lieu of prosecution.

Payment of any Notice of Violation does not exempt the person from enforcement of an order pursuant to Section 7 of this Bylaw.

Notwithstanding the provisions of this section, a person to whom a Bylaw Violation Notice has been issued pursuant to this section may exercise his right to defend any charge of committing a contravention of any of the provisions of the Bylaw.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Administrator

Read and adopted by the Council of the Town of Kipling

this \_\_\_\_ day of \_\_\_\_\_, 2010.