

## **BYLAW NO 5/09**

### **A BYLAW TO REGULATE THE USE OF OPEN-AIR FIRES WITHIN THE TOWN OF WAKAW**

The Council of the Town of Wakaw in the Province of Saskatchewan, enacts as follows:

1. Open-air fires shall not be set unless the following measures are taken to limit their spread:
  - (a) Fires shall be contained in a non-combustible receptacle constructed of cement, brick or sheet metal with a minimum 18 gauge thickness;
  - (b) A receptacle shall be covered with a heavy gauge screen with openings not exceeding 13 millimeters; and
  - (c) The size of the fire box of any shall not exceed 0.61 meters.
2. The fuel for open-air fires shall consist only of charcoal or cut, seasoned wood. The burning of all other material is prohibited.
3. Open-air fires shall be reasonably supervised so as to prevent their spread.
4. Open-air fires shall be adequately ventilated to ensure proper combustion and to prevent an unreasonable accumulation of smoke.
5. Open-air fires shall not be set in windy conditions conducive to creating a running fire or a nuisance to another person.
6. If smoke from an open-air fire causes an unreasonable interference with the use and enjoyment of another person's property, the fire shall be extinguished immediately.

7. Any person who violates or fails to comply with any of the provisions of this bylaw is guilty of an offense and liable on summary conviction to the penalties set out below:
- (a) First Offence - \$100.00
  - (b) Second Offence - \$200.0
  - (c) Third or subsequent offences – not less than \$200.00 and not more than \$2000.00
  - (d) Fines under 7(a) or 7(b) shall be discounted to the sum of \$75.00 for a first offence and \$150.00 for a second offence if paid within 14 calendar days of the date of the notice of bylaw violation.
8. This Bylaw comes into effect on the 20<sup>th</sup> day of October, 2009.

Read a first time this 20<sup>th</sup> day of October, 2009.

Read a second time this 20<sup>th</sup> day of October, 2009.

Read a third time and passed this 20<sup>th</sup> day of October, 2009.

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Ed Kidd  
Mayor

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Rick Kindrachuk  
Administrator

“SEAL”

Certified a True Copy  
of Bylaw No 4/09 adopted  
by resolution of council  
on the 20<sup>th</sup> day of  
October, 2009

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Administrator

## BYLAW NO. 4/09

### THE NOISE BYLAW

The Town of Wakaw 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 Town of Wakaw 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) Town means The Town of Wakaw;
  - (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) "commercial district" means a commercial 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 premise” 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 No. 5/87* of The Town of Wakaw;

### Scope

- 4. (1) This Bylaw applies to the control of all sound originating within the jurisdictional limits of The Town of Wakaw.
- (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 Town of Wakaw, 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 Town of Wakaw; 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.
- (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 7:00 a.m. on a weekday, and 10:00 p.m. and 9:00 a.m. on a Sunday or a statutory holiday.
  - (b) *Radios, Televisions, Stereos, Compact Disc Players, Musical Instruments and Similar Devices:* The use or operation of a radio, television, compact disc player, stereo, "boom box", "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:* In 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 twenty (20) minutes.
  - (d) *Engine Brakes:* The use of an engine brake on any motor vehicle driven with the Town of Wakaw, except in cases of emergency.
  - (e) *Air Horns:* The use of an air horn on any motor vehicle within the Town, except in cases of emergency.
  - (f) *Construction or Repair of Buildings:* In all areas of the Town 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 7:00 a.m. on a weekday, and 10:00 p.m. and 9:00 a.m. on a Sunday or a statutory holiday, that 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, "boom box", "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 Town 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.

### **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 permission has been obtained from the Town.
  - (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 other works by or on behalf of the Town.

**Extension of Hours for Outdoor Public Events**

- 8. (1) The Town may, upon written application, grant permission to extend the hours during which amplification equipment may be used at an outdoor public event.
- (2) In exercising its authority pursuant to subsection (1), the Town may grant its permission with or without conditions.

**Offences and Penalties**

- 9. (1) Except as provided in Subsection (2), every person who contravenes any provision of this Bylaw is guilty of an offence and liable on summary conviction:
  - (a) in the case of an individual, to a fine not exceeding \$10,000.00 and, in the case of a continuing offence, to a further fine of not more than \$10,000.00 for each day during which the offence continues;
  - (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:
- (2) Every person who uses engine brakes in contravention of Section 6(d) of this Bylaw is guilty of an offence and liable on summary conviction:
  - (a) in the case of an individual, to a fine not less than \$250.00 and not exceeding \$10,000.00 and, in the case of a continuing offence, to a further fine of not more than \$10,000.00 for each day during which the offence continues;
  - (b) in the case of a corporation, to a fine not less than \$250.00 and 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 Town the sum of:

(i) \$250.00 in the case of a violation of Section 6(d); or

(ii) \$100.00 in the case of any other violation;

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, at the Town Office, Wakaw; Saskatchewan;

(ii) by mail addressed to, Town of Wakaw, Box 669, Wakaw, Sask. S0K 4P0.

(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.

### **Coming Into Force**

12. This Bylaw shall come into force on the 20<sup>th</sup> day of October, 2009.

Read a first time this 20<sup>th</sup> day of October, 2009.

Read a second time this 20<sup>th</sup> day of October, 2009.

Read a third time and passed this 20<sup>th</sup> day of October, 2009.

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Ed Kidd  
Mayor

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Rick Kindrachuk  
Administrator

“SEAL”

Certified a True Copy  
of Bylaw No 4/09 adopted  
by resolution of council  
on the 20<sup>th</sup> day of  
October, 2009

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Administrator