

BYLAW 32-2010
RESORT VILLAGE OF CANDLE LAKE
NOISE BYLAW

A Bylaw of the Resort Village of Candle Lake, in the Province of Saskatchewan, to regulate, prohibit, and otherwise control noise in the Resort Village of Candle Lake

Council of the Resort Village of Candle Lake enacts as follows:

1. TITLE:

This Bylaw may be referred to as the "Noise" Bylaw

2. DEFINITIONS:

In this Bylaw:

"Bylaw Enforcement Officer" means any person designated by Council as a Bylaw Enforcement Officer, and includes every Peace Officer;

"Concert" means a musical entertainment or performance by voices or instruments or pre-recorded means, or a combination of all, with or without amplification, or an outdoor nature, to which members of the public are invited or admitted, with or without charge.;

"Council" means the Municipal Council of the Resort Village of Candle Lake;

"Engine Brake" means a device used in trucks and semi-trailer units to slow or brake the said vehicles by means of closing the exhaust valves on the engines of the said vehicles, or any similar device;

"Occupant" means a person who is the owner, 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;

"Peace Officer" means any member of the Royal Canadian Mounted Police and any person appointed as a Bylaw Enforcement Officer under Section 373 of *The Municipalities Act*;

"Person" includes any owner, occupant, company, corporation, firm, association, partnership, society, individual of party;

"Premises" means the area contained within the boundaries of any lot and includes any



building situated within such boundaries except where any building contains more than one (1) dwelling unit and in such case, such dwelling unit, the common area of such building unit, and in such case, such dwelling, the common area of such building and the land surrounding the building with the boundaries of the lot shall be deemed to be separate premises;

“Private Property” means property to which the public have access, whether on payment or otherwise, only by permission of the owners, occupier or lessee of the property;

“Property” means real property, together with all improvements which have been affixed or brought on to the land;

“Residential Building” means a building which is constructed as a dwelling for human beings;

“Residential District” means a district established as a residential district by a Bylaw in effect with the Resort Village;

“Signalling Device” means a horn, gong, bell, klaxon, siren, or other device producing an audible sound for the purpose of drawing peoples’ attention to an approaching vehicle or bicycle;

“Weekday” means 12:01 a.m. Monday through to noon Friday of any week, but does not include any statutory holiday;

“Vehicle” shall have the same meaning as vehicle has in *The Traffic Safety Act, 2004* as amended or substituted.

3. DOMESTIC NOISES:

- 3.1. No person shall make or cause, or permit to be made or caused, in or on a highway or elsewhere in the Resort Village of Candle Lake, any noise or sound which disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood or of persons in the vicinity, except to the extent where it is allowed by this Bylaw.
- 3.2 Without limiting the generality of the foregoing, no person shall own, keep, house harbour or allow a dog, animal or bird to make a sound or noise in contravention of Subsection 3.1.
- 3.3 Without limiting the generality of Section 3.2 or 3.3 of this Bylaw, no person shall operate or play any musical instrument, radio, stereophonic equipment, or other device for the production or amplification of sound, or permit such devices to be operated or played, in the Resort Village in such a manner as to disturb the

quiet, peace, rest, enjoyment, comfort, or convenience of the neighbourhood or of persons in the vicinity, in contravention of Subsection 3.1.

3.4 Without limiting the generality of the foregoing, no person shall advertise by any means in contravention of Subsection 3.1.

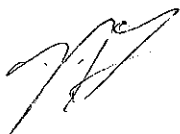
3.5 The factors for determining whether a noise or sound meets the criteria of Subsections 3.1 to 3.4 shall include, but are not limited to, the following:

- (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 noise of sound emanates and the area where it is received or perceived;
- (c) the time of day or night that the noise or sound occurs;
- (d) the duration of the noise or sound;
- (e) the volume of the noise of sound;
- (f) the nature of the noise or sound;
- (g) whether the noise or sound is recurrent, intermittent or constant; and
- (h) the nature of the activity from which the noise or sound emanates.

3.6 Without restricting the generality of Section 3, no person shall operate or allow to be operated in any residential district:

- (1) between the hours of 10:00 p.m. and 7:00 a.m. of any weekday; and
- (2) between the hours of 10:00 p.m. and 8:00 a.m. of any weekend and statutory holiday:
 - a lawn mower of any kind;
 - a snow clearing machine powered by an engine of any type;
 - a roto-tilling machine of any kind, or
 - any other machine or device of a similar or like nature that is powered by an internal combustion engine or an electrical motor.

3.7 A Judge may determine from the evidence of a Peace Officer whether the events in Subsection 3.1 to 3.6 have occurred.



4. CONSTRUCTION NOISES:

4.1 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 capable of creating a sound beyond the boundaries of the site on which the activity is being carried on:

- (1) between the hours of 11:00 p.m. and 7:00 a.m. of any weekday; and
- (2) between the hours of 11:00 p.m. and 8:00 a.m. of any weekend and statutory holiday.

4.2 Except in an emergency, no person shall operate or allow to be operated 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, so as to create a noise which may be heard in any residential building:

- (1) between the hours of 11:00 p.m. and 7:00 a.m. of any weekday; and
- (2) between the hours of 11:00 p.m. and 8:00 a.m. of any weekend and statutory holiday:

5. AIRPLANES:

5.1 No person shall operate or allow to be operated, an airplane so as to create a noise which may be heard in any residential building:

- (1) between the hours of 10:00 p.m. and 6:00 a.m. of any weekday; and
- (2) between the hours of 10:00 p.m. and 6:00 a.m. of any weekend and statutory holiday:

6. DIESEL MOTORS:

6.1 No person shall allow the diesel motor on a tractor, semi-trailer truck or heavy equipment to remain running longer than fifteen (15) minutes while the equipment or tractor



is stationary in any residential district or zone or any other location within five hundred (500) feet of any residential zone.

7. CONCERTS:

7.1 No person shall, within the Resort Village, operate, maintain or conduct a concert which produces, reproduces or amplifies sound in such a manner as to create an unusual 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.

7.2 No person shall operate, maintain or conduct a concert in any Municipal Reserve within the boundaries of the Resort Village without first obtaining written permission and conditions from the Resort Village.

8. EXCEPTIONS:

8.1 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 sound of motor vehicle 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 a general or a particular alarm or warning to announce a fire or other emergency disaster;
- (f) the sounding of police whistles or sirens or other signalling devices on any vehicle used by the police or fire department or on any ambulance or public service vehicle;
- (g) any use of sound amplification equipment used by the police, fire department or any ambulance service;
- (h) the use, in a reasonable manner, of any apparatus or mechanism for the amplification of the human voice or of music in a public area or any other commodious space in connection with any public election meeting, public celebration or other lawful public gatherings of a similar nature;
- (i) the use of any tractors, trucks or other equipment for snow removal, snow



clearing, refuse collection, street sanding, the repair or maintenance of streets, drainage by Resort Village public works;

9. INSPECTION:

9.1 A Peace Officer or Bylaw Enforcement Officer may enter on any property at any reasonable time for the purpose of ascertaining whether the requirements of this Bylaw are being observed. No person shall obstruct a Peace Officer or Bylaw Enforcement Officer under this Section.

10. PENALTIES:

10.1 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) \$200.00 in the case of a first offence; and
- (b) \$300.00 in the case of each and every subsequent offence within thirty (30) minutes to twenty-four (24) hours of the first offence; and
- (c) \$500.00 in the case of any subsequent offence within three (3) months of any previous offence;

AND not more than

- i.) \$2,000.00 in the case of an individual; and
- ii) \$5,000.00 in the case of a corporation.

10.2 All fines, penalties and forfeitures mentioned in the Bylaw may be recovered and enforced with costs by summary conviction before a judge.

10.3 This Bylaw may be enforced and the contravention of any provision of the Bylaw restrained by any Court, on action brought by the Resort Village whether or not any penalty is imposed for the contravention.

10.4 Conviction of a person for a contravention of any provision of the Bylaw does not relieve a person from compliance with the Bylaw, and convicting Judge or Justice

of the Peace shall, in addition to any fine imposed, order the person to perform, within a specific time period, any act or work necessary for the property observance of the Bylaw or to remedy the contravention of the Bylaw.

10.5 A person who fails to comply with an order made pursuant to Subsection 10.4 within the period specified in the order, is guilty of an offence and liable on summary conviction to a fine of not more than \$250.00 for each day during which the failure continues.

10.6 Notwithstanding Subsections 10.1 to 10.5, a Peace Officer or Bylaw Enforcement Officer may issue a Notice of Bylaw Violation to a person who contravenes a provision of this Bylaw. The Notice of Violation shall provide that if the person pays the Resort Village the sum of \$100.00 within fourteen (14) days from the date of Notice of Violation, the person contravening the Bylaw is not required to appear in Court to answer the charge and the person shall not be prosecuted for the contravention.

10.7 The fine may be paid:

- (a) in person, during regular business hours at the Resort Village of Candle Lake Administration Office, Candle Lake, Saskatchewan;
- (b) by mail addressed to the Resort Village of Candle Lake, Box 114, Candle Lake, Saskatchewan, S0J 3E0.

11. RELIEF FROM REQUIREMENTS:

11.1 Applications for a permit for relief from sound levels designated in this Bylaw on the basis of undue hardship may be issued by Council of the Resort Village. 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) any other information required at that time; and



- (f) a statement of the steps, if any, planned or presently being taken to bring about compliance.

11.2 Council of the Resort Village, by resolution, may refuse to grant any exemption or may grant the exemption applied for under Section 11.1 or any exemption of lesser effect and any exemption granted shall specify the time period during which it is effective and may contain such terms and conditions as Council sees fit. Council of the Resort Village may, by resolution, revoke such exemption on twenty-four (24) hours written notice to the applicant, delivered by ordinary registered mail.

11.3 Council of the Resort Village may, by resolution, approve a written request for a temporary relaxation of Sections of this Bylaw, for a specific event and for a specific time frame.

12.0 SEVERABILITY:

12.1 If a Court of competent jurisdiction should declare any section of the Bylaw to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the Bylaw and it is hereby declared that the remainder of the Bylaw shall be valid and remain in force and effect.

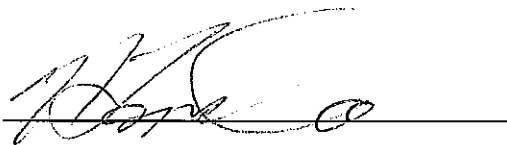
13. REPEAL FORMER BYLAW:

13.1 Bylaw 3-2005 is hereby repealed.

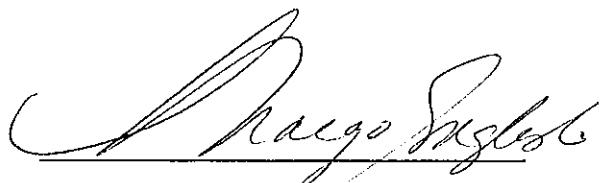
Introduced and read for a first time this 28th day of June, 2010.

Read for a second time this 28th day of June, 2010.

Read for a third time and passed this 28th day of June, 2010.



Mayor Toporowski



Administrator – Margo English

