

CITY OF MARTENSVILLE
NOISE BYLAW
BYLAW NO. 6-2017

A BYLAW OF THE CITY OF MARTENSVILLE TO ESTABLISH A NOISE BYLAW

Pursuant to Section 8 of *The Cities Act*, the Council of the City of Martensville, in the Province of Saskatchewan, enacts as follows:

Short Title

1. This Bylaw may be cited as The Noise Bylaw, 2017.

Purpose

2. This Bylaw is enacted to protect, preserve and promote the safety, health, welfare, peace and quiet of the citizens of The City of Martensville 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) “Bylaw Enforcement Officer” means any person appointed by the Council to enforce the provisions of this bylaw;
 - (b) “Bylaw Notice” means a notice that is used to give notice that the bylaw has been contravened;
 - (c) “City” means the City of Martensville in the Province of Saskatchewan;
 - (d) “City Manager” means the manager of the City of Martensville;
 - (e) “Council” means the Council of the City of Martensville;
 - (f) “Dwelling” means a dwelling unit within the meaning of *The Zoning Bylaw*;
 - (g) “Emergency vehicle” means a motor vehicle used in response to a public catastrophe or to protect persons or property from imminent danger;
 - (h) “Emergency Work” means work made necessary to restore property to a safe condition following a public catastrophe, work to restore public utilities, roadways or public facilities, or work required to protect persons or property from an imminent exposure to danger;

CITY OF MARTENSVILLE
NOISE BYLAW
BYLAW NO. 6-2017

- (i) “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;
- (j) “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 City of Martensville;
- (k) “Industrial District” means an industrial district as established by the Zoning Bylaw;
- (l) “Justice” means a judge of the Provincial Court of Saskatchewan or a presiding justice of the peace;
- (m) “Motorcycle” means a motorcycle as defined in *The Traffic Safety Act*;
- (n) “Motor Vehicle” means motor vehicle as defined in *The Traffic Safety Act*;
- (o) “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;
- (p) “Residential Building” means a building/structure used for the shelter or accommodation of persons;
- (q) “Residential District” means a residential districts as established by the Zoning Bylaw;
- (r) “Signalling device” means a horn, gong, bell, siren or other device producing an audible sound for the purpose of drawing people’s attention to an approaching vehicle, including a bicycle;
- (s) “Weekday” means any day other than a Sunday or Holiday;
- (t) “Zoning Bylaw” mean The Zoning Bylaw 1-2015 of The City of Martensville.

CITY OF MARTENSVILLE
NOISE BYLAW
BYLAW NO. 6-2017

Scope

4. (1) This Bylaw applies to the control of all sound originating within the jurisdictional limits of The City of Martensville.
- (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 City, 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 City; 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.
- (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;

CITY OF MARTENSVILLE
NOISE BYLAW
BYLAW NO. 6-2017

- (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 bylaw enforcement officer relating to the conduct of a person or persons that a sound is unreasonably loud or excessive.

Motor Vehicle Noise Prohibition

- 5.1 Without limiting the generality of section 5, 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 justice may consider any of the factors mentioned in subsection 5(2); and
 - (c) no person shall operate a motorcycle within the City of Martinsville that is capable or emitting any sound exceeding 92 dB(A), as measured by a sound level meter at 50 centimeters from the exhaust outlet while the engine is at idle; or emitting any sound exceeding 96 dB(A), as measured by a sound level meter at 50 centimeters from the exhaust outlet while the engine is at any speed greater than idle.

CITY OF MARTENSVILLE
NOISE BYLAW
BYLAW NO. 6-2017

Sound Level Meter Certificate

- 5.2 A certificate issued by the manufacturer of a sound level meter shall be admitted into evidence as *prima facie* proof the meter meets the applicable standard set out in clause 3(m.1).

Testing Permitted

- 5.3 The operator of any motor vehicle shall, upon the request of a police officer, take the motor vehicle to any site designated by the police officer and have the motor vehicle tested for sound.

Failure to Comply with Request of Police Officer

- 5.4 It shall be an offence for the operator of any motor vehicle to refuse to take the motor vehicle to any site designated by the police officer and have the motor vehicle tested for sound when requested by the police officer.

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, Musical Instruments and Similar Devices:* The use or operation of a radio, television, stereo, 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.

CITY OF MARTENSVILLE
NOISE BYLAW
BYLAW NO. 6-2017

- (c) *Idling Vehicles:* In residential districts, 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 twenty (20) minutes.
- (d) *Engine Brakes:* The use of an engine brake on any motor vehicle driven within the City of Martensville, except in cases of emergency.
- (e) *Air Horns:* The use of an air horn on any motor vehicle within the City, except in cases of emergency.
- (f) *Construction or Repair of Buildings:* In all areas of the City 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 produces sound that is plainly audible across the property line of the 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, 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 City 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) *Dogs:* Please reference Animal Control Bylaw 15-2015, Part III, section 2.
- (i) *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.

CITY OF MARTENSVILLE
NOISE BYLAW
BYLAW NO. 6-2017

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 a permit has been obtained from the City.
 - (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 any other works by or on behalf of The City.

Extension of Hours for Outdoor Public Events

8. (1) The City 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 City 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:
 - (i) for a first offence, not less than \$100.00;
 - (ii) for a second offence, not less than \$200.00; and

CITY OF MARTENSVILLE
NOISE BYLAW
BYLAW NO. 6-2017

(iii) for a third or subsequent offence, not less than \$400.00;

and not more than \$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; and

(b) in the case of a corporation, to a fine:

(i) for a first offence, not less than \$100.00;

(ii) for a second offence, not less than \$200.00; and

(iii) for a third or subsequent offence, not less than \$400.00;

and not more than \$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 bylaw enforcement officer may issue a notice of violation to that person;

(b) The notice of violation shall provide that, if the person pays the City 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;

CITY OF MARTENSVILLE
NOISE BYLAW
BYLAW NO. 6-2017

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, to the cashier located at City Hall, Martensville, Saskatchewan;
- (ii) by deposit, at the depository located at the main entrance to City Hall, Martensville, Saskatchewan; or
- (iii) by mail addressed to City Hall, Box 970, Martensville, Saskatchewan, S0K 2T0.

(5) Notwithstanding Subsection (4), 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 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.

Bylaw No. 6/82 Repealed

11. Bylaw No. 6/82 is repealed.

CITY OF MARTENSVILLE
NOISE BYLAW
BYLAW NO. 6-2017

Coming Into Force

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

Read a first time this > day of >, 2017
Read a second time this this > day of >, 2017
Read a third time and adopted this > day of >, 2017

MAYOR

CITY CLERK