

CITY OF ABBOTSFORD

CONSOLIDATED AUDIBLE BIRD SCARE DEVICE BYLAW, 2013

Bylaw No. 2210-2013

AMENDMENTS

<u>No.</u>	<u>Date Adopted</u>	<u>Description</u>
2553-2016	2016 06 27	Deletes and replaces Section 5, Offence and Penalties

WHEREAS The *Local Government Act*, Section 918 and *Right to Farm Regulation* authorize the City to make bylaws under Section 917 in relation to farm areas with the approval of the Minister of Agriculture;

AND WHEREAS Council is concerned about adverse effects from the unregulated use of Audible Bird Scare Devices on other farming operations and on human health;

AND WHEREAS Council considers that regulation is desirable to ensure the use of Audible Bird Scare Devices is respectful of others in the vicinity and preferably used as a last resort, after other methods of discouraging birds from eating farm produce have been exhausted;

NOW THEREFORE, the Council of the City of Abbotsford, in open meeting assembled, ENACTS AS FOLLOWS:

1. CITATION

Bylaw No. 2210-2013 may be cited as “Audible Bird Scare Device Bylaw, 2013”.

2. INTERPRETATION

- (a) Schedule “A” contains definitions of terms used in this Bylaw.
- (b) Except as otherwise defined in this Bylaw, words and phrases in this Bylaw are to be construed in accordance with their meanings under the *Local Government Act*, *Farm Practices Protection (Right to Farm) Act*, the *Interpretation Act of British Columbia* and the Guide for Bylaw Development in Farming Areas, BC Ministry of Agriculture, 2013.
- (c) A reference to any statute, regulation or bylaw refers to that enactment as it may be amended or replaced from time to time.
- (d) Words in the singular include the plural and gender specific terms include both genders and include corporations.
- (e) The headings in this Bylaw are for convenience only and must not be construed as defining or in any way limiting the scope or intent of this Bylaw.
- (f) If any part of this Bylaw is held to be invalid by a court of competent jurisdiction, the invalid part is severed and the remainder continues to be valid.

3. AUDIBLE BIRD SCARE DEVICES

- (a) A person must not use an ABSD except for farm crop protection as part of a farm operation, and only in accordance with this Bylaw.
- (b) An ABSD may only be used when it is registered annually with the City; registration requires a Bird Predation Management Plan, which must be submitted to the City upon request.
 - (i) a sign is posted on, or adjacent to, the main entrance of the Site operating the device, which:
 - A. is legibly marked with:
 - i. the registration number of the Site;
 - ii. the street address of the Site; and
 - iii. a telephone number, to be provided by the City, for the purpose of making complaints about ABSDs or reporting violations;
 - B. is a minimum size of 0.6 metres x 0.6 metres (two feet by two feet);
 - C. is facing the highway, so as to be clearly viewable by the public; and
 - D. meets the requirements set out in Schedule "B", attached to and forming part of this Bylaw;
 - (ii) the ABSD is only operated when it is strictly necessary and only between 6:30 a.m. and 8:00 p.m., or from sunrise to sunset, whichever is of lesser duration;
 - (iii) the ABSD is relocated every four days; and
 - (iv) a maximum of one device is used on a ratio of one ABSD per two hectares of cropland at any one time.
- (c) In addition to Subsection 3 (b), a Category A Device is permitted under the following conditions:
 - (i) it is not operated between 12:00 noon and 3:00 p.m.;
 - (ii) it has a maximum firing frequency of one firing per 5 minutes for single shot devices and a maximum of 11 Activations or 33 shots in any hour for a multiple-shot device;

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- (iii) it is located a minimum of 200 metres from all adjacent Dwelling Units. Where written permission from the resident of an adjacent Dwelling Unit is obtained, the separation distance can be reduced or waived;
 - (iv) if it is located within of 200 metres of a building or enclosure that normally houses horses, the owner of the Category A Device notifies the owner of the building or enclosure, in writing at least 24 hours prior to the first firing of the season; and
 - (v) it is pointed away from adjacent Dwelling Units, buildings or enclosures that normally house horses, where possible.
- (d) In addition to Subsection 3 (b), a Category B Device is not permitted unless it is located a minimum of 100 metres from all adjacent Dwelling Units. Where written permission from the owner of an adjacent Dwelling Unit is obtained, the separation distance can be reduced or waived.
- (e) In addition to Subsection 3 (b), shell launchers or orchard pistols must not be used within the 200 metres of all adjacent Dwelling Units. Where written permission from the owner of an adjacent Dwelling Unit is obtained, the separation distance can be reduced or waived. Shell launchers must not be pointed in the direction of adjacent Dwelling Units. Notwithstanding the above, bear bangers are not permitted for use as ABSDs.

4. BIRD PREDATION MANAGEMENT PLAN

A Bird Predation Management Plan must be updated annually and must include:

- (a) description of the Site, including:
 - (i) the name of the Site and location (street address) where the ABSD is used;
 - (ii) the full name of the Bird Control Manager and contact phone number; and
 - (iii) the full name of the Local Contact Person and contact phone number;
- (b) a description of Site size, including total acreage and acreage by harvest season (if applicable);
- (c) a description of the bird species for which the ABSD is used (and an estimate of crop/feed loss by bird species, if appropriate) based on observations from past years;

- (d) an outline of the use of bird control techniques with a focus to maximize their effectiveness and minimize disruption to neighbours. Such techniques include, but are not limited to:
 - (i) netting;
 - (ii) falconry;
 - (iii) ABSDs (such as propane cannons, and cracker or whistler shells);
 - (iv) visual deterrents (such as hawk kites, ribbons), and
 - (v) bird trapping;
- (e) records of bird pressure and propane cannon use within the overall Bird Predation Management Plan. These records should be made on a regular basis and should:
 - (i) evaluate bird pressure in conjunction with effectiveness of bird control techniques based on the time of the day;
 - (ii) the time of growing season;
 - (iii) the location of propane cannon(s) on the Site;
 - (iv) bird habituation to the ABSDs; and
 - (v) other factors that the farmer deems appropriate;
- (f) a section addressing potential changes to the Bird Predation Management Plan for the following year based on the evaluation; and
- (g) a diagram of the field map that shows:
 - (i) buildings;
 - (ii) neighbouring houses;
 - (iii) blocks of early, mid and late season crops;
 - (iv) bird perching sites; and
 - (v) location of the ABSDs at the start of the season, indicating separation distances between ABSDs and all neighbouring Dwelling Units, buildings or enclosures that normally house horses.

5. OFFENCE AND PENALTIES (B/L 2553-2016)

Notwithstanding the offence and penalties as provided under the *Community Charter* or *Local Government Act*, the following will apply:

- (a) a violation of any of the provisions identified in this Bylaw will result in liability for penalties and late payment amounts established in the City's *Bylaw Notice Enforcement Bylaw, 2007*, and *Municipal Ticket Information Bylaw, 2007*;
- (b) a violation of any of the provisions identified in this Bylaw will be subject to the procedures, restrictions, limits, obligations and rights established in the *Bylaw Notice Enforcement Bylaw, 2007*, in accordance with the *Local Government Bylaw Notice Enforcement Act, SBC 2003, c. 60*;
- (c) a person who:
 - (i) contravenes, violates or fails to comply with any provision of this Bylaw;
 - (ii) suffers or allows any act or thing to be done in contravention or violation of this Bylaw; or
 - (iii) fails or neglects to do anything required to be done under this Bylaw,is deemed to have committed an infraction of, or an offence against, this Bylaw; and is liable on summary conviction to a fine of not more than Ten Thousand Dollars (\$10,000.00); and
- (d) each day such infraction is caused, or allowed to continue, constitutes a separate offence.

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6. EFFECTIVE DATE AND REVIEW

- (a) This Bylaw comes into force on the day it is adopted.
- (b) This Bylaw will be reviewed by Council within one year of the date it is enacted, and thereafter once annually.

READ A FIRST TIME this	6 th day of	May, 2013
READ A SECOND TIME this	6 th day of	May, 2013
PUBLIC HEARING held this	10 th day of	June, 2013
READ A THIRD TIME this	26 th day of	August, 2013
RESCIND THIRD READING this	16 th day of	February, 2015
REREAD A THIRD TIME this	16 th day of	February, 2015
APPROVED by the Minister of Agriculture	22 nd day of	March, 2015
ADOPTED this	30 th day of	March, 2015

Henry Braun
Mayor

William Flitton
Corporate Officer

SCHEDULE "A"

DEFINITIONS

In this Bylaw, unless the context otherwise requires:

"Activation" means multiple shots from an Audible Bird Scare Device if they occur in less than a 30-second period.

"Audible Bird Scare Device" or "ABSD" means a device used to control or reduce the impact of wildlife on crops or horse feed; and may include propane-fueled cannons or exploders, electronic warblers, bird distress call recorders, motorcycles, and firearms with various cracker or whistler shells.

"Bird Control Manager" means the person responsible for:

- i. implementing the Bird Predation Management Plan and the terms it establishes for the use of ABSDs;
- ii. making regular visits to the Site(s) to ensure that ABSDs are functioning properly;
- iii. monitoring the operation and use of ABSDs in the context of bird pressures;
- iv. adjusting ABSDs usage in relation to bird pressure with a view to minimizing both ABSD use and bird habituation;
- v. responding quickly and proactively to misfirings of ABSDs and making adjustments to the firing frequencies of ABSDs based on variations in bird pressures and issues of bird habituations to ABSDs; and
- vi. recording bird pressure and the operation of ABSDs on a regular basis.

"Bird Predation Management Plan" means an integrated pest management program designed to use established guidelines as set out by the Ministry of Agriculture.

"Category A Device" means a stationary Audible Bird Scare Device that creates an impulse sound from impacts or explosions and can include, but is not limited to, propane-fueled exploders or cannons. Neither firearms nor shell launchers (eg. orchard pistols) are Category A Devices.

SCHEDULE "A"

DEFINITIONS (cont'd)

"Category B Device" means a stationary Audible Bird Scare Device which is not a Category A Device, and which generates sounds to scare or disturb birds and can include, but is not limited to, a device that broadcasts birdcalls or other sounds through loudspeakers. Neither firearms nor shell launchers (eg. orchard pistols) are Category B Devices.

"City" means the City of Abbotsford.

"Dwelling Unit" means "Dwelling Unit" as defined in the City's Zoning Bylaw.

"Local Contact Person" means an individual who lives within earshot of one or more ABSDs who is responsible for:

- a) ensuring that the ABSD(s) are not operated outside of the hours permitted by this Bylaw; and
- b) responding promptly should out-of-hours operation occur.

"Site" means a farm operation located on a lot or contiguous lots upon which one or more Audible Bird Scare Devices is used.

SCHEDULE "B"

1. SAMPLE SIGN

**AUDIBLE BIRD SCARE
DEVICE IN USE**

Registration #: XXXX-XXXX
For use at: Property Address

Device to follow the regulations set out in the Abbotsford Audible Bird Scare Device Bylaw, 2013, Bylaw No. 2210-2013. If you believe that this device is in contravention of the bylaw, please contact:
City of Abbotsford Bylaw Enforcement: 604-864-5512