


FW: Audible Bird Scare Device (Propane Cannon) Bylaw

Thursday, March 6, 2014
10:03 AM

Subject	FW: Audible Bird Scare Device (Propane Cannon) Bylaw
From	Nickel, Ken AGRI:EX
To	Margerison, Elizabeth AGRI:EX
Sent	Wednesday, March 5, 2014 7:25 PM
Attachments	 image001

From: Bill Flitton [<mailto:BFlitton@abbotsford.ca>]
Sent: Wednesday, February 12, 2014 11:39 AM
To: Nickel, Ken AGRI:EX
Cc: Jake Rudolph; van Dalfsen, Bert AGRI:EX; Thompson, Grant AGRI:EX
Subject: RE: Audible Bird Scare Device (Propane Cannon) Bylaw

Hi Ken,

I don't believe we have to meet but I have invited Bert to another meeting regarding these bylaws in general, and Starling Management.

Bill

-----Original Message-----

From: Nickel, Ken AGRI:EX [<mailto:Ken.Nickel@gov.bc.ca>]
Sent: Wed 12/02/2014 9:58 AM
To: Bill Flitton
Cc: Jake Rudolph; van Dalfsen, Bert AGRI:EX; Thompson, Grant AGRI:EX
Subject: RE: Audible Bird Scare Device (Propane Cannon) Bylaw

Hi Bill,

Thankyou for yourpatience and follow-up actions. We have now received the information and documentation we required from the City in order to support the Minister in his decision regarding this bylaw. Bert van Dalfsen is managing the internal AGRI process and is available as a contact person for you should the City have any questions. His phone number is (604) 556-3109.

If you would still like to meet about this bylaw please let me know and we'll set up a meeting.

Thanks again for following up with us.

Ken

Ken Nickel, Director
Sector Development Branch
BC Ministry of Agriculture
1767 Angus Campbell Road
Abbotsford BC V3G 2M3
Telephone: 604 556-3103
ken.nickel@gov.bc.ca

From: Bill Flitton [<mailto:BFlitton@abbotsford.ca>]
Sent: Monday, February 3, 2014 9:56 AM
To: Nickel, Ken AGRI:EX
Cc: Jake Rudolph
Subject: RE: Audible Bird Scare Device (Propane Cannon) Bylaw

Hi Ken,

As discussed this AM we'll wait to hear back from you before proceeding further with this discussion.

Attached for reference is the City's proposed bylaw (City Preferred) and another bylaw that was considered by Council (Ministry Compliant) but did not proceed.

Bill

Bill Flitton
Director, Legislative Services/City Clerk
Email: bflitton@abbotsford.ca <<mailto:bflitton@abbotsford.ca>>
Tel: 604-864-5603 Fax: 604-853-1934
[\[cid:image001.jpg@01CF27D6.674D0860\]](#)

From: Nickel, Ken AGRI:EX [<mailto:Ken.Nickel@gov.bc.ca>]
Sent: Monday, February 03, 2014 9:42 AM
To: Bill Flitton
Cc: Jake Rudolph
Subject: RE: Audible Bird Scare Device (Propane Cannon) Bylaw

Hello Mr. Flitton

Thanks for this invitation to meet. In order to provide the best support to you with your proposed bylaw, it would be helpful to know the objective of the meeting. Would we be able to have a short conversation prior to the meeting?

I am free this afternoon if you are able to call me.

Thanks

Ken Nickel

Ken Nickel, Director
Sector Development Branch
BC Ministry of Agriculture
1767 Angus Campbell Road
Abbotsford BC V3G 2M3
Telephone: 604 556-3103
ken.nickel@gov.bc.ca <<mailto:ken.nickel@gov.bc.ca>>

From: Bill Flitton [<mailto:BFlitton@abbotsford.ca>]
Sent: Friday, January 31, 2014 4:44 PM
To: Nickel, Ken AGRI:EX
Cc: Jake Rudolph
Subject: Audible Bird Scare Device (Propane Cannon) Bylaw

Good afternoon Mr. Nickel,

The City's Deputy City Manager and I would like to meet with you at your earliest convenience to discuss the City's proposed Audible Bird Scare Device Bylaw, restricting the use of propane cannons.

Are you available either Tuesday, February 4 or Wednesday, February 5 at 11:00am to meet at City Hall? Thanks,



Bill Flitton

Bill Flitton
Director, Legislative Services/City Clerk
Email: bflitton@abbotsford.ca <<mailto:bflitton@abbotsford.ca>>
Tel: 604-864-5603 Fax: 604-853-1934

[\[cid:image001.jpg@01CF27D6.674D0860\]](#)

FW: Audible Bird Scare Device (Propane Cannon) Bylaw

Thursday, March 6, 2014
10:04 AM

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To	Margerison, Elizabeth AGRI:EX
Sent	Wednesday, March 5, 2014 7:27 PM
Attachments	 2210-2013 Audible Bi...  2210-2013 DRAFT Aud...

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Attached for reference is the City's proposed bylaw (City Preferred) and another bylaw that was considered by Council (Ministry Compliant) but did not proceed.

Bill

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Director, Legislative Services/City Clerk
Email: bflitton@abbotsford.ca
Tel: 604-864-5603 Fax: 604-853-1934



32315 South Fraser Way
Abbotsford, BC V2T 1W7
www.abbotsford.ca

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Sent: Monday, February 03, 2014 9:42 AM
To: Bill Flitton
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I am free this afternoon if you are able to call me.

Thanks

Ken Nickel

Ken Nickel, Director Sector Development Branch

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To: Nickel, Ken AGRI:EX
Cc: Jake Rudolph
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Are you available either Tuesday, February 4 or Wednesday, February 5 at 11:00am to meet at City Hall? Thanks,

Bill Flitton

Bill Flitton

Director, Legislative Services/City Clerk

Email: bflitton@abbotsford.ca

Tel: 604-864-5603 Fax: 604-853-1934



32315 South Fraser Way
Abbotsford, BC V2T 1W7
www.abbotsford.ca

AUDIBLE BIRD SCARE DEVICE BYLAW, 2013

Bylaw No. 2210-2013

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, May 2011.
- (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 all of the following conditions are met:
 - (i) it is registered annually with the City; registration requires:
 - A. the submission of a Bird Predation Management Plan; and
 - B. an annual registration fee of \$125 per Site to be paid to the City;
 - (ii) 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; and
 - ii. 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;
 - (iii) 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;
 - (iv) the ABSD is relocated every four days; and
 - (v) 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;
 - (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 Livestock, or a Dog Kennel, the owner of the Category A Device notifies the owner of the building, enclosure, or Dog Kennel, 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 Livestock, and Dog Kennels.
- (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

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- (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, cracker or whistler shells and lasers), and
 - (iv) 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 Livestock, and Dog Kennels.

5. ENFORCEMENT AND PENALTY

- (a) This Bylaw may be enforced by Bylaw Enforcement Officers employed by the City.
- (b) Every person who:
 - (i) contravenes or violates any provision of this Bylaw;
 - (ii) causes, permits, suffers or allows any act or thing to be done in contravention or in violation of any provision of this Bylaw; or
 - (iii) who neglects to do or refrains from doing anything required to be done by any provision of this Bylaw,commits an offence and, where the offence is a continuing one, each day the offence continues shall be a separate offence.
- (c) Upon being convicted of an offence under this Bylaw, a person shall be liable to pay a fine of up to \$10,000 together with the costs of such prosecution.

CITY OF ABBOTSFORD
AUDIBLE BIRD SCARE DEVICE BYLAW, 2013

Bylaw No. 2210-2013

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5. 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	day of	, 2013
READ A THIRD TIME this	day of	, 2013
APPROVED by the Minister of Agriculture	day of	, 2013
ADOPTED this	day of	, 2013

R. Bruce Banman
Mayor

William Flitton
Corporate Officer

CITY OF ABBOTSFORD
AUDIBLE BIRD SCARE DEVICE BYLAW, 2013

Bylaw No. 2210-2013

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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 Livestock 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 normal farm practices in a socially responsible manner prepared in accordance with Section 4 of this Bylaw.

"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.

CITY OF ABBOTSFORD
AUDIBLE BIRD SCARE DEVICE BYLAW, 2013

Bylaw No. 2210-2013

Page 8

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.

"Dog Kennel" means "Dog Kennel" as defined in the City's Dog Licence Bylaw.

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

"Livestock" means cattle, horses, sheep, goats, swine, poultry, llamas, alpacas, exotic animals and rabbits, or other animal raised as part of a farm operation.

"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.

CITY OF ABBOTSFORD
AUDIBLE BIRD SCARE DEVICE BYLAW, 2013

Bylaw No. 2210-2013

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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

AUDIBLE BIRD SCARE DEVICE BYLAW, 2013

Bylaw No. 2210-2013

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, May 2011.
- (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 a Category A Device (Propane-Fired Cannon/Orchard Pistols) or Category B Device (Sound System) ABSD except for farm crop protection as part of a farm operation, and only in accordance with this Bylaw.

CITY OF ABBOTSFORD

AUDIBLE BIRD SCARE DEVICE BYLAW, 2013

Bylaw No. 2210-2013

Page 2

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- (b) An ABSD in either Category A Device (Propane-Fired Cannon/Orchard Pistols) or Category B Device (Sound System) may only be used when all of the following conditions are met:
- (i) the ABSD is used as part of a Bird Predation Management Plan;
 - (ii) birds were observed preying on farm crops and their impact on farm crops are described in a Bird Predation Management Plan;
 - (iii) a current Bird Predation Management Plan is completed, signed, and submitted to the City;
 - (iv) the ABSD is registered with the City;
 - (v) an annual registration fee of \$50 per farm operation and \$25 per ABSD is paid to the City;
 - (vi) the farmer maintains a continuing, current log of bird predation management, and provides a copy to the City's Bylaw Enforcement Officer upon request;
 - (vii) a sign is posted on, or adjacent to, the main entrance of the farm operating the device, which is:
 - A. legibly marked with:
 - i. the registration number of each ABSD; and
 - ii. a telephone number, to be provided by the City for the purpose of making complaints about ABSDs or reporting violations;
 - B. a minimum size of 0.6 metres x 0.6 metres (two feet by two feet);
 - C. 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;
 - (viii) the ABSD is relocated every four days;
 - (ix) the ABSD is pointed away from adjacent dwelling units; and
 - (x) a maximum of one device is used on a ratio of one ABSD per two hectares of cropland.

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- (c) In addition to Subsection 3 (b), the following conditions apply to the use of any Category A Device (Propane-Fired Cannon/Orchard Pistols):
- (i) the ABSD must only be operated from 7:00 a.m. to noon and 3 p.m. to 7:00 p.m. or sunrise to noon and 3 p.m. to sunset, whichever is of lesser duration;
 - (ii) the ABSD must be limited to a maximum firing frequency of:
 - A. 4 shots per hour for single-shot devices; and
 - B. 3 activations per hour for multi-shot devices.multiple shots from a ABSD are considered as one activation if they all occur in less than a 30-second period;
 - (iii) the ABSD must be located a minimum of 300 metres from:
 - A. all adjacent Dwelling Units, except when written permission is given by the residents of any dwelling within the setbacks;
 - B. a building or enclosure that normally houses Livestock; or
 - C. a Dog Kennel.
 - (iv) the ABSD must be registered with the City during the first year of the adoption of this Bylaw; and
 - (v) in the case of orchard pistols, projectiles must remain within the setback limits outlined in Subsection (c)(iii), and projectiles must be fully contained within the property boundaries where the ABSD is situated.
- (d) In addition to Subsection 3 (b), the following conditions apply to the use of any Category B Device (Sound System):
- (i) the ABSD must only be operated from 7:00 a.m. to 7:00 p.m. or sunrise to sunset, whichever is of lesser duration;
 - (ii) The ABSD must be located a minimum of 200 metres from:
 - A. all adjacent Dwelling Units, except when written permission is given by the residents of any dwelling within the setbacks;
 - B. a building or enclosure that normally houses Livestock; or
 - C. a Dog Kennel.

CITY OF ABBOTSFORD
AUDIBLE BIRD SCARE DEVICE BYLAW, 2013

Bylaw No. 2210-2013

Page 4

4. ENFORCEMENT AND PENALTY

- (a) This Bylaw may be enforced by Bylaw Enforcement Officers employed by the City.
- (b) Every person who:
 - (i) contravenes or violates any provision of this Bylaw;
 - (ii) causes, permits, suffers or allows any act or thing to be done in contravention or in violation of any provision of this Bylaw; or
 - (iii) who neglects to do or refrains from doing anything required to be done by any provision of this Bylaw,

commits an offence and, where the offence is a continuing one, each day the offence continues shall be a separate offence.

- (c) Upon being convicted of an offence under this Bylaw, a person shall be liable to pay a fine of up to \$10,000 together with the costs of such prosecution.

5. EFFECTIVE DATE AND REVIEW

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PUBLIC HEARING held this	day of	, 2013
READ A THIRD TIME this	day of	, 2013
APPROVED by the Minister of Agriculture	day of	, 2013
ADOPTED this	day of	, 2013

R. Bruce Banman
Mayor

William Flitton
Corporate Officer

SCHEDULE "A"

DEFINITIONS

In this Bylaw, unless the context otherwise requires:

"Audible Bird Scare Device" or *ABSD* means a device used to control or reduce the impact of wildlife on crops or livestock 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 Predation Management Plan" means a plan to control or reduce bird predation on farm crops, prepared by a farmer intending to use an *ABSD* as part of a farm operation, that is consistent with guidelines published by the government; and that includes evidence as to the impact of bird predation on the farm operation, what other measures were taken, and why the farmer considers the proposed *ABSD* to be necessary.

"Category A Device (Propane-Fired Cannon/Orchard Pistols)" means an Audible Bird Scare Device that creates an impulse sound from impacts or explosions, such as propane-fueled exploders or cannons, shell launchers and orchard pistols.

"Category B Device (Sound System)" means an Audible Bird Scare Device that generates sounds to scare or disturb birds such as birdcalls or other sounds broadcast through loud speakers.

"City" means the City of Abbotsford.

"Dog Kennel" means "Dog Kennel" as defined in the City's Dog Licence Bylaw.

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

"Livestock" means cattle, horses, sheep, goats, swine, poultry, llamas, alpacas, exotic animals and rabbits, or other animal raised as part of a farm operation.

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:
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Thursday, March 6, 2014
10:04 AM

Subject	FW: Audible Bird Scare Device (Propane Cannon) Bylaw
From	Nickel, Ken AGRI:EX
To	Margerison, Elizabeth AGRI:EX
Sent	Wednesday, March 5, 2014 7:26 PM
Attachments	 Briefing Note - Mi...

From: Bill Flitton [<mailto:BFlitton@abbotsford.ca>]
Sent: Monday, February 3, 2014 12:10 PM
To: Nickel, Ken AGRI:EX
Cc: Jake Rudolph
Subject: RE: Audible Bird Scare Device (Propane Cannon) Bylaw

Hi Ken,

The Mayor and City Manager met with the Minister on Monday, September 16th, 2013 from 3:20-3:35pm.

Attached is the backgrounder.

Bill

Bill Flitton

Director, Legislative Services/City Clerk
Email: bflitton@abbotsford.ca
Tel: 604-864-5603 Fax: 604-853-1934



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Abbotsford, BC V2T 1W7
www.abbotsford.ca

From: Nickel, Ken AGRI:EX [<mailto:Ken.Nickel@gov.bc.ca>]
Sent: Monday, February 03, 2014 11:19 AM
To: Bill Flitton
Cc: Jake Rudolph
Subject: RE: Audible Bird Scare Device (Propane Cannon) Bylaw

Thanks Bill,

I appreciate the attachments.

I am looking into the status of the City's request (bylaw package) that you mentioned had been submitted at UBCM. Was there anything else in the submission pertaining to this bylaw?

Ken

Ken Nickel, Director Sector Development Branch

BC Ministry of Agriculture
1767 Angus Campbell Road
Abbotsford BC V3G 2M3
Telephone: 604 556-3103
ken.nickel@gov.bc.ca

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Subject: RE: Audible Bird Scare Device (Propane Cannon) Bylaw

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As discussed this AM we'll wait to hear back from you before proceeding further with this discussion.

Attached for reference is the City's proposed bylaw (City Preferred) and another bylaw that was considered by Council (Ministry Compliant) but did not proceed.

Bill

Bill Flitton

Director, Legislative Services/City Clerk

Email: bflitton@abbotsford.ca

Tel: 604-864-5603 Fax: 604-853-1934



32315 South Fraser Way
Abbotsford, BC V2T 1W7
www.abbotsford.ca

From: Nickel, Ken AGRI:EX [<mailto:Ken.Nickel@gov.bc.ca>]

Sent: Monday, February 03, 2014 9:42 AM

To: Bill Flitton

Cc: Jake Rudolph

Subject: RE: Audible Bird Scare Device (Propane Cannon) Bylaw

Hello Mr. Flitton

Thanks for this invitation to meet. In order to provide the best support to you with your proposed bylaw, it would be helpful to know the objective of the meeting. Would we be able to have a short conversation prior to the meeting?

I am free this afternoon if you are able to call me.

Thanks

Ken Nickel

**Ken Nickel, Director
Sector Development Branch**

BC Ministry of Agriculture
1767 Angus Campbell Road
Abbotsford BC V3G 2M3
Telephone: 604 556-3103
ken.nickel@gov.bc.ca

From: Bill Flitton [<mailto:BFlitton@abbotsford.ca>]

Sent: Friday, January 31, 2014 4:44 PM

To: Nickel, Ken AGRI:EX

Cc: Jake Rudolph

Subject: Audible Bird Scare Device (Propane Cannon) Bylaw

Good afternoon Mr. Nickel,

The City's Deputy City Manager and I would like to meet with you at your earliest convenience to discuss the City's proposed Audible Bird Scare Device Bylaw, restricting the use of propane cannons.

Are you available either Tuesday, February 4 or Wednesday, February 5 at 11:00am to meet at City Hall? Thanks,

Bill Flitton

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CITY OF ABBOTSFORD
Ministry Of Agriculture
INFORMATION BRIEFING NOTE

- I. Prepared for** the Honourable Pat Pimm, Minister of Agriculture, for **DECISION**
- II. SUBJECT:** City of Abbotsford Audible Bird Scare Device Bylaw
- III. BACKGROUND:**

Farmers use audible bird scare devices (ABSDs), including devices known as propane cannons, to protect their crops from bird predation, primarily by Starlings. The Provincial *Farm Practices Protection Act (FPPA)* or 'Right to Farm Act' provides farmers with protection from nuisance, and regulation by local government bylaw, when normal farm practices are followed.

The use of ABSDs is considered a normal farm practice when guidelines established by the Ministry of Agriculture (the Ministry) and the Farm Industry Review Board (FIRB) are followed. The guidelines address such things as hours of use, proximity to dwellings and frequency of discharge. It categorizes devices that create an impulse sound, such as propane cannons, as Category "A" devices and stationary devices which generate sounds as Category "B" devices. The use of shell launchers or "orchard pistols" is expected to follow Category "A" guidelines except for the limitation on number of devices per hectare, firing frequency and mid-day break.

Under Section 917 of the Local Government Act, a local government may make a bylaw in relation to a farm operation, commonly referred to as a "Farm Bylaw" as a form of land use under the Right to Farm Act; however, it must be approved by the Minister of Agriculture. Farm bylaws override the protection from nuisance, and regulation by local government bylaw that the FPPA provides when normal farm practices are followed. The Bylaw Notice Enforcement Bylaw and the Municipal Ticket Information Bylaw authorize the City to enforce its regulatory bylaw by means of a ticket. These ticket bylaws must be kept up to date with the City's regulatory bylaws, as any changes are made to the regulatory bylaws or when any errors or omissions are identified.

IV. DISCUSSION:

In 2009, the BC Farm Industry Review Board (BCFIRB) studied the use of ABSDs and released a report that included 17 recommendations aimed at the Ministry of Agriculture, local governments and the agricultural industry. On April 12, 2010, Abbotsford City Council considered the FIRB recommendations and generally resolved to support the work of the B.C. Blueberry Council's Liaison Officer and to participate in a Starling Management Program. The B.C. Blueberry Council's Liaison Officer works with farmers to resolve complaints; however, the Liaison Officer has no legislated authority to take enforcement action.

On September 10, 2012, in response to numerous complaints from the public regarding noise created by ABSDs, Abbotsford City Council resolved to establish a select committee, tasked with developing a farm bylaw governing the use of ABSDs and that discussions be held with the Fraser Valley Regional District, the Minister of Agriculture and the industry represented by the BC Blueberry Council, to develop a firm plan of action to deal with the infestation of Starlings. A Farm Bylaw Select Committee was subsequently established made up of the Mayor, two Abbotsford City Councillors and five citizens.

Detailed background of Farm Bylaw Select Committee discussions and recommendations to Abbotsford City Council are attached to this Briefing Note.

On August 26, 2013, Abbotsford City Council adopted changes to the Bylaw recommended by the Farm Bylaw Select Committee including recommendations that exceed the current provincial model bylaw in a number of areas including:

- The number of shots allowed is 4 per hour for single shot devices.
- The number of activations is changed to 3 per hour from 11 per hour for multiple shot devices.
- The separation distance from dwellings for Category A devices is increased from 200m to 300m.
- The separation distance from dwellings for Category B devices is increased from 100m to 200m.
- Devices cannot be within 200m for Category A devices, and 200m for Category B devices from livestock or a dog kennel. The owner of the livestock or dog kennel must be advised in writing, at least 24 hours prior to the first firing of the season.
- A registration fee of \$125 per site. Such a fee is not required in the provincial model bylaw but is permitted. The Bird Predation Management Plan was strengthened and based on Township of Langley's bylaw. The amended bylaw now includes greater detail regarding the plan an operator is required to develop, maintain and report on.
- The fine structures in the amended bylaws, including the Bylaw Notice Enforcement Bylaw and Municipal Ticket Information Bylaw, have progressive fines ranging from \$200 to \$1,000. Before levying fines, Bylaw staff will proactively provide written warnings and educate the operator regarding the City's bylaws.

It is clearly understood that the provincial guidelines stipulate that the City must exhaust all avenues to address the issue of propane cannons before any other proposals are reviewed. The Farm Bylaw Select Committee has exhausted all such avenues. The provisions of this Bylaw are anticipated to bring about compliance; however, they exceed the provincial guidelines.

V. REQUEST:

The City requests the Ministry approve the City of Abbotsford Bylaw 2210-2013, Audible Bird Scare Device.

Prepared by: George Murray, City Manager, City of Abbotsford
604-864-5584
September 10, 2013

FW: Audible Bird Scare Device (Propane Cannon) Bylaw

Thursday, March 6, 2014
10:04 AM

Subject	FW: Audible Bird Scare Device (Propane Cannon) Bylaw
From	Nickel, Ken AGRI:EX
To	Margerison, Elizabeth AGRI:EX
Sent	Wednesday, March 5, 2014 7:25 PM

From: Nickel, Ken AGRI:EX
Sent: Wednesday, February 12, 2014 9:59 AM
To: 'Bill Flitton'
Cc: 'Jake Rudolph'; van Dalfsen, Bert AGRI:EX; Thompson, Grant AGRI:EX
Subject: RE: Audible Bird Scare Device (Propane Cannon) Bylaw

Hi Bill,

Thank you for your patience and follow-up actions. We have now received the information and documentation we required from the City in order to support the Minister in his decision regarding this bylaw. Bert van Dalfsen is managing the internal AGRI process and is available as a contact person for you should the City have any questions. His phone number is (604) 556-3109.

If you would still like to meet about this bylaw please let me know and we'll set up a meeting.

Thanks again for following up with us.

Ken

**Ken Nickel, Director
Sector Development Branch**

BC Ministry of Agriculture
1767 Angus Campbell Road
Abbotsford BC V3G 2M3
Telephone: 604 556-3103
ken.nickel@gov.bc.ca

From: Bill Flitton [<mailto:BFlitton@abbotsford.ca>]
Sent: Monday, February 3, 2014 9:56 AM
To: Nickel, Ken AGRI:EX
Cc: Jake Rudolph
Subject: RE: Audible Bird Scare Device (Propane Cannon) Bylaw

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