

# The Rural Municipality of Minto-Odanah

## By-Law # 10/23

### Noise Control By-Law

BEING a By-Law of The Rural Municipality of Minto-Odanah to regulate and prohibit unnecessary and harmful noise within the Rural Municipality of Minto-Odanah.

WHEREAS Section 232 and 233 of The Municipal Act provides in part as follows:

- 232(1) A council may pass by-laws for municipal purposes respecting the following matters:
- a) The safety, health, protection and well-being of people, and the safety and protection of property;
  - b) People, activities and things in, on or near a public place or a place open to the public, including parks, municipal roads, recreation centers, restaurants, facilities, retail stores, malls, and private clubs and facilities that are exempt from municipal taxation;
  - c) Subject to section 233, activities or things in or on private property;
- 233 A by-law under clause 232(1)(c) (activities or thing in or on private property) may contain provisions only in respect of:
- d) Activities or things that in the opinion of the council are or could become a nuisance, which may include noise, weeds, odors, unsightly property, fumes and vibrations.

AND WHEREAS it is deemed advisable to exercise the powers set out in The Municipal Act as excessive sound is a serious hazard to the public health and welfare, safety and quality of life;

AND WHEREAS the public has a right to and should be ensured an environment free from excessive sound that may be prejudicial to their health or welfare or safety or diminish the quality of life;

NOW THEREFORE it is hereby enacted as a By-Law of the Rural Municipality of Minto-Odanah, in open session duly assembled at the Council Chambers in the Town of Minnedosa, in Manitoba, as follows:

1. That this By-Law be referred to as the Rural Municipality of Minto-Odanah Noise Control By-law.

### 2. DEFINITIONS

“Council” means the Council of the Rural Municipality of Minto-Odanah.

“Daytime” means the period:

- a) Beginning at 7:00 a.m. and ending at 11:00 p.m. of the same day or weekdays; or
- b) Beginning at 10:00 a.m. and ending at 11:00 p.m. of the same day on a weekend.

“Emergency” means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage threatened or caused by an emergency.

“Emergency Work” means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

“Enforcement Officer” means

- a) A designated officer or other person appointed and employed by the Rural Municipality of Minto-Odanah who has the authority to enforce, implement or administer all or part of this By-Law; and
- b) A member of the Royal Canadian Mounted Police or any Police Officer.

“Night-Time” means the period beginning at 11:00 p.m. and ending the following day at:

- a) 7:00 a.m. if the following day is a weekday; or
- b) 10:00 a.m. if the following day is a weekend.

“Nuisance Noise” means any unwanted and unreasonably loud or unusual sounds which are likely to, or annoy, injure or disturb the health, peace, or safety of any person as determined by an Enforcement Officer.

“Off-Road vehicle” means an off-road vehicle as defined in “The Off-Road Vehicles Act”

“Outdoor Speaker System” means any sound amplification device(s) that converts electrical impulses into sound, whether the device is independent or incorporated into a radio, stereo, television, public address or other system, which is used for general listening purposes and positioned:

- a) Outside of a building;
- b) Inside a building and within two (2) meters of any opening in the building including a window or doorway, where it is directed outside of the building; or
- c) Inside a tent or outdoor concert facility.

“Owner” means the person or persons or the corporation shown as the registered owner on the latest revised assessment rolls of the Municipality.

“Occupant” means and includes an owner, lessee, tenant, sub-tenant, under-tenant and respective assigns, heirs and legal representative, and includes any person, business or corporation exercising physical control or possession of real property or premises with or without the consent of the owner.

“Recreational Vehicle” means any motorized recreational vehicle, whether licensed and registered or not, but not necessarily restricted to, racing cars, motorcycles, go-carts, all-terrain vehicles, off-road vehicles, snowmobiles, and trail bikes.

“Vehicle” means an automobile, motorcycle, truck, bus and any other vehicle propelled by or driven by means other than by muscular power, solar power or wind.

“Weekday” means Monday through Saturday, inclusive unless it falls on a holiday, as defined in the “Interpretation Act, C.C.S.M. c. 180, as amended or replaced from time to time.

“Weekend” means Sunday and any other holiday, as defined in the “Interpretation Act, C.C.S.M. c. 180, as amended or replaced from time to time.

### 3. PROHIBITED NOISES:

- 1) No person shall make or continue to or cause or permit to make any noise or sound which:
  - a) Is such that it does, or is likely to annoy, inconvenience or disturb persons;
  - b) Cause the loss of enjoyment of the normal use of one’s property;
  - c) Interfere with the normal conduct of business; except where otherwise permitted by this By-Law.
- 2) The following shall be deemed likely to be Nuisance Noise and restricted between the hours of 11:00 p.m. and 7:00 a.m. of any weekday and 11:00 p.m. and 10:00 a.m. of any weekend:
  - a) The sound caused by the lighting and/or setting off of any explosive noise making device, including a firecracker or other fireworks;
  - b) The sound emanating from an excavation or construction work of any nature;
  - c) The sound resulting from the use and/or operation of any power tool, motorized lawn mower, snow clearing device, chain saw, leaf blower, motorized garden tiller, weed/grass trimmer or similar device used outdoors;
- 3) The following shall be deemed likely to be a Nuisance Noise regardless of the day or hour:
  - a) Any loud, blasphemous, abusive, obscene, or insulting language or singing or shouting or speaking in a boisterous manner;

- b) The sound emanating from any musical instrument or loudspeaker, when as determined by an Enforcement Officer is audible from a distance of thirty (30) meters or more, unless authorized by the Municipality;
  - c) The excessive sound emanating from any motor toy, drone, recreational vehicle or vehicles as determined by an Enforcement Officer of the Municipality unless authorized by the Municipality.
4. No quarry shall operate for more than twelve (12) hours per day. The said operation shall only be allowed between the hours of 7:00 a.m. and 7:00 p.m.. Council may grant special permission on a case by case basis.

The property owner, lessee, occupier or person in control of a premises is responsible for Nuisance Noise created by invitees, guests or other persons on the premises in the same manner as the person actually creating the Nuisance Noise unless the property owner, lessee, occupier or person in control of the premises establishes that they exercised due diligence in a bona fide effort to control and abate such Nuisance Noise.

#### **4. PERMITTED NOISES:**

None of the provisions of this By-Law shall apply to:

- 1) Sound resulting from an activity which is being carried on and is not in breach of any applicable land use provisions, and it is shown to the satisfaction of the Enforcement Officer or C.A.O. that:
  - a) The sound intensity level is not unreasonable, taking into consideration the type of activity allowed by the applicable land use provisions, and that;
  - b) All reasonable steps have been taken by the owner, lessee, occupier or person in control of the property from which the sound is emanating in order to reduce the intensity.
- 2) Sound emanating from any concert, circus, fair, parade, street festival, block party or similar activity authorized by the Municipality.
- 3) Any farmer or agent or employee of a farmer operating farm equipment during the normal course of farming operation.
- 4) Any agent, employee, servant or contractor of the Municipality performing services for or on behalf of the Municipality.
- 5) Sound emanating from the clearing of snow from private parking lots and driveways.
- 6) Sound emanating from a Fire Hall, or the sirens of any emergency vehicle while engaged in providing Emergency work or responding to an Emergency or during testing of an Emergency warning siren.
- 7) The use of any bell, chime or similar sound for the purpose of calling persons to church and/or similar school services.
- 8) The lighting or setting off of fireworks, by certified persons, as a public display or celebration with the approval of the Fire Chief.
- 9) Works being conducted by the Province of Manitoba, Manitoba Hydro, and Public Works Departments.
- 10) Any sound arising from the operation of a railway under the "Railway Act of Canada" or from any plant or work in connection with the operation of a railway.
- 11) Snowmobiles on approved snowmobile routes travelling from a point of origin to destination and back.

#### **5. ENFORCEMENT:**

- 1) If the Enforcement Officer believes, on reasonable grounds, that a person is contravening any provision of this by-law, the Enforcement Officer may by written order, require any person responsible for the contravention to remedy it.
- 2) The order may:
  - a) Direct a person to stop doing something, or to change the way in which the person is doing it;
  - b) Direct a person to take any action or measures necessary to remedy the contravention of this By-Law and, if necessary, to prevent a re-occurrence of the contravention;
  - c) State a time within which the person must comply with the directions;
  - d) State that if the person does not comply with the directions within a specified time, the Municipality will take the action or measure seizing, removing, impounding, confiscating and selling or otherwise disposing of plants, animals, vehicles, or other things related to a contravention.

- 3) A person named in and served with an order issued pursuant to this section shall comply with any action or measure required to be taken within the time specified.
- 4) An Order issued pursuant to this section may be served:
  - a) In the case of an individual:
    - i) By delivering it personally to the individual;
    - ii) By leaving it for the individual at their apparent place of residence with someone who appears to be at least eighteen (18) years of age; or
  - b) In the case of a Corporation, other than one mentioned in clause (a) above:
    - i) By leaving a copy of the document with an officer, director or agent of the corporation, or with a person at any place of business of the corporation who appears to be in control or management of the place of business.

#### 6. OFFENCES AND PENALTIES:

- 1) Each separate provision of this By-Law shall be deemed independent of all other provisions herein.
- 2) If any provision of this By-Law is declared to be invalid, all other provisions thereof shall remain valid.
- 3) Any contravention that arises within a 24-hour period, the person or place that contravenes this Noise Control By-Law shall be required to cease and desist from any continued violation of the Noise Control By-Law by order of any Enforcement Officer who attends such complaint.
- 4) Any person who fails to comply or contravenes any provision of this By-Law is guilty of an offence and is liable to the penalties as follows:
  - a) First Offence - A preset fine amount of \$100.00
  - b) Second Offence - A preset fine amount of \$500.00
  - c) Third Offence and for each subsequent offence within twelve (12) months of the first offence - A preset fine amount of \$1,000.00
- 5) A fine levied and costs charged under this By-Law may be collected by the Municipality in the same manner as a tax may be collected or enforced under "The Municipal Act".
- 6) In any proceeding under this By-Law, and any and all persons found in or upon of about any premises where a violation of this By-Law has taken place at the time of the committing of any offence, shall be presumed to be in possession of those lands and premises with the knowledge and consent of the owner or occupant, unless the contrary is proven by the owner or occupant charged.

#### 7. SEVERABILITY:

- 1) In the event any provision of this By-Law is held invalid by a court of competent jurisdiction, the remaining provisions of this By-Law shall not be invalidated.

#### 8. LIABILITY

- 1) Any action by the Rural Municipality of Minto-Odanah to enforce any part of this By-Law shall not result in any civil liability to the Rural Municipality of Minto-Odanah, and the Rural Municipality of Minto-Odanah shall be entitled to a full indemnity for an liability it incurs as a result of any person's failure to comply with the provisions of this By-Law from such person.

DONE AND PASSED as a By-Law of The Rural Municipality of Minto-Odanah at Minnedosa, MB. in the Province of Manitoba, this 12<sup>th</sup> day of October, 2023.

  
 \_\_\_\_\_  
 Doug Dowsett - Reeve

  
 \_\_\_\_\_  
 Aaren Robertson - C.A.O.

Read a first time this 10<sup>th</sup> day of August, 2023.

Read a second time this 14<sup>th</sup> day of September, 2023.

Read a third time this 17<sup>th</sup> day of October, 2023.