

VILLAGE OF DUNNOTTAR

BY-LAW NO. 956/18

Being a By-Law of the Village of Dunnottar to regulate and Prohibit Nuisance Noise.

WHEREAS Section 232 of The Municipal Act L.M. 1996, c. 58 Cap. M225 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;
- d)
- e)
- f)
- g)
- h)
- i)
- j) the sale and use of firecrackers and other fireworks, the use of rifles, guns and other firearms, and the use of bows and arrows and other devices;
- k)
- l)
- m)
- n)
- o) the enforcement of by-laws.

AND WHEREAS Section 233 of The Municipal Act L.M. 1996, c. 58 Cap. M225 provides in part as follows:

- a)
- b)
- c)
- d) activities or things that in the opinion of the Council are or could become a nuisance, which may include noise, weeds, odours, unsightly property, fumes and vibrations.

NOW THEREFORE be it and it is hereby enacted as a by-law of the Village of Dunnottar as follows:

1.0 TITLE

1.1 This By-Law may be referred to as the "Village of Dunnottar Noise By-Law".

2.0 DEFINITIONS

2.1 Unless otherwise expressly provided or unless the context otherwise requires, words and expressions in this By-Law have the same meaning as the same words and expressions in The Municipal Act.

2.2 Wherever the singular or masculine are used throughout this By-Law, the same shall be construed as meaning the plural or feminine or neutral, where the context so requires.

2.3 In this By-law:

- a) Administrator means the Chief Administrative Officer of the Village of Dunnottar or his/her designate;
- b) Chief of Police means the Officer in Charge of the Selkirk RCMP Detachment;
- c) Construction includes the erection, alteration, repair, dismantling and demolition of structures and includes structural maintenance, hammering, land clearing, moving of earth, rock or felled trees, rock breaking, grading, excavating, the laying of pipe or conduit whether above or below ground level, working with concrete, alteration or installation of any equipment, the structural installation of construction components or materials in any form whatsoever, the placing or removing of any construction related materials and includes any work in connection therewith;
- d) Emergency means any occurrence or set of circumstances including actual or imminent physical trauma or property damage which demands immediate action;
- e) 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;
- f) Fire Chief means the Fire Chief of the Matlock Fire Department as appointed from time to time;
- g) Fireworks means and includes any combustible or explosive composition or any substance or combination of substances or article prepared for the purpose of producing a visible and/or an audible effect by combustion, explosion, deflagration or detonation;
- h) Low Hazard Fireworks means those fireworks defined as such under the current Explosives Regulations made under the Explosives Act of Canada and, without limiting the generality of the foregoing, includes firework showers, fountains, golden rain, lawn lights, pin wheels, Roman candle and volcanoes;
- i) Motor Vehicle means an automobile, motorcycle, truck and any other vehicle propelled or driven otherwise than by muscular power;
- j) Motorized Recreational Vehicle means all recreational motorized vehicles whether or not duly licensed and registered, including, but not limited to, commercial or non-commercial racing vehicles, motorcycle, go-carts, snow-mobile, trail bikes, all-terrain vehicles, amphibious craft and motor boats;
- k) Noise means any loud or harsh sound;
- l) Nuisance Noise means any loud, unnecessary or unusual sound or any sound whatsoever which annoys, disturbs, injures, endangers or distracts from the comfort, repose, health, peace and/or safety of any reasonable person as determined by an Officer;
- m) Occupant means and includes owner, lessee, tenant, sub-tenant, under-tenant and his or their assigns, heirs and legal representatives, and shall include any person exercising physical control or possession of the lands and premises in question, where such control or possession is with or without the consent of the owner, and also includes any person found on the land or premises in question;
- n) Officer means any Member of the Royal Canadian Mounted Police Force and any other police officer, police constable, By-Law Enforcement Officer, designated officer or other person appointed and employed by the Village of Dunnottar for preservation and maintenance of the public peace;
- o) Owner means the person or persons shown as the registered owner on the last revised Assessment Roll for the Village of Dunnottar and includes the Lessor, the person giving or permitting the occupancy of the premises in question and his or their heirs, assigns and legal representatives and also includes any person entitled to the possession of the premises;

- p) Person means any individual and includes firm, partnership, association, corporation, company or group of persons;
- q) Powered Model Vehicle means any self-propelled airborne, water-borne or land-borne airplane, vessel or vehicle, which is not designed to carry a person including, but not limited to, any model airplane, boat, car or rocket;
- r) Premises means a building or buildings including the associated lands;
- s) Residential Area means any area where a person or persons maintain a residence, and without limiting the generality of the foregoing, shall include all areas zoned as Residential pursuant to the Village of Dunnottar Zoning By-Law and all other areas where residences are maintained;
- t) Sound means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium and the description of sound may include any characteristic of such sound, including duration, intensity and frequency;
- u) Village means the Village of Dunnottar.

3.0 PROHIBITED NOISES

- 3.1 No person shall make, continue to cause, or allow to be made or continued, by whatever means, any Nuisance Noise except where otherwise permitted by this By-Law.
- 3.2 Offence 956-1: Without restricting the generality of Section 3.1 hereof, the following shall be deemed likely to be Nuisance Noise:
 - a) the sound emanating from excavation or construction work of any nature between the hours of 11:00 p.m. of any day and 7:00 a.m. of the next following day;
 - b) 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, garden tool, weed/grass trimmer, motorized toy or similar device used outdoors in any Residential Area between 11:00 p.m. of any day and 7:00 a.m. of the next following day, except where such work is necessary to protect or prevent injury or danger to persons or property;
 - c) any loud, abusive, obscene or insulting language or singing, whistling or shouting or speaking in a boisterous manner;
 - d) the sounding of a horn or other signaling device on a vehicle, except as a warning;
 - e) the sounding of any horn, whistle or other device on a vehicle that is operated by the engine exhaust;
 - f) the use or operation of any radio, television, musical instrument, stereo, boombox, loud speaker or other device for the production, reproduction or amplification of sound;
 - g) the use of motorized vehicles, boats, all-terrain vehicles or stationary engines that are not equipped with noise mufflers;
 - h) the operation of a vehicle that is so out of repair as to create a grating, grinding, rattling or other irritating noise;
 - i) the operation of powered model vehicles between the hours of 11:00 p.m. of any day and 7:00 a.m. of the next following day;
 - j) the barking of any dog or the noise of other animals.

- 3.3 The property/owner, lessee, occupier or person in control of a premise 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 he exercised due diligence in a bona fide effort to control and abate such Nuisance Noise.

4.0 PERMITTED NOISES

- 4.1 None of the provisions of this By-law shall apply to:
- a) sound resulting from an activity which is being carried on and is not breach of any applicable land use provisions, and it is shown, to the satisfaction of the Officer or Administrator, that
 - i) the sound intensity level is not unreasonable, taking into consideration the type of activity allowed by the applicable land use provisions; and
 - ii) 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;
 - b) sound emanating from any street festival, concert, event, block party or similar function authorized by Council;
 - c) snow clearing, road maintenance and road construction vehicles and equipment operated by the Village or the Province of Manitoba or their agents and/or contractors;
 - d) grass and field or play maintenance vehicles and equipment operated by the Village and the Province of Manitoba or their agents and/or contractors;
 - e) sound emanating from septic cleaning trucks operated by the Village and/or contractors;
 - f) sound emanating from the clearing of snow from private parking lots and driveways;
 - g) sound emanating from the sirens of any emergency vehicle while engaged in providing Emergency Work or responding to an Emergency or during testing of the Emergency Measures civil defense or warning siren;
 - h) the use of any bell, chime or similar sound for the purpose of calling persons to church and/or similar school services;
 - i) the lighting and setting off of fireworks, by certified persons, as a public display or celebration with the approval of Council;
 - j) the reasonable and necessary use and operation of vehicles or the shouting of persons in the performance of emergency work, including police and fire department vehicles and ambulances on emergency calls;
 - k) the use, in a reasonable manner, of any apparatus or mechanism for the amplification of human voice or of music in a public park or any other public place in connection with a public election, public deliberation or other reasonable gathering or during the month of December for the rendering of Christmas carols or musical chimes anywhere in the area;
 - l) the operations of the railway or an airplane;
 - m) the carrying on of any activity not mentioned in this section that may produce a noise nuisance where written permission of the Council has been first had and obtained.

5.0 FIREWORKS

5.1 Low Hazard Fireworks shall be permitted, subject to the following:

- a) Offence 956-2: fireworks will be permitted only between the hours of 7:00 p.m. and 11:00 p.m. on New Year's Eve, New Year's Day, the eve of Victoria Day, Victoria Day, the eve of Canada Day, Canada Day, the eve of the August Civic Holiday, August Civic Holiday, the eve of Labour Day, Labour Day, the eve of Thanksgiving and Thanksgiving Day; and
- b) Offence 956-3: fireworks are discharged on privately owned land; and
- c) Offence 956-4: fireworks are discharged by a person 18 years of age or older; and
- d) Offence 956-5: fireworks shall not be discharged in such a manner as might create danger or constitute a nuisance to any person or property, or to do or cause or allow any unsafe act or omission at the time and place for the discharge of fireworks; and
- e) Offence 956-6: fireworks shall not be discharged in or into any building doorway or automobile; and
- f) Offence 956-7: fireworks shall not be discharged in or on or into any park, highway, street land or other public place, unless prior permission has been obtained from Council.

6.0 FIREARMS

- 6.1 Offence 956-8: No person shall fire a rifle, gun, revolver, pistol, pellet gun, BB gun or other firearm anywhere within the limits of the Village:
- 6.2 Offence 956-9: No person shall use a sling shot, catapult, bow and arrow or other weapon within the limits of the Village.

7.0 CONTRAVENTION AND FINES

- 7.1 Any person who contravenes any provision of this By-law is guilty of an offence and is liable:
- a) to a fine not less than Two Hundred Dollars (\$200.00) and to a maximum of Five Hundred Dollars (\$500.00) for the **first offence**.
 - b) to a fine of not less than Five Hundred Dollars (\$500.00) and to a maximum of One Thousand Dollars (\$1,000.00) for the **second offence** and for each subsequent offence within twelve (12) months of the first offence, and in default of payment, to imprisonment for not more than thirty (30) days.

8.0 SEVERABILITY

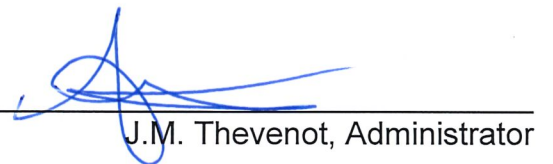
- 8.1 If any provision of this By-Law is held to be invalid by any Court of competent jurisdiction, the remaining provisions of this By-law shall not be invalidated.

9.0 REPEAL

9.1 By-law No. 930/15 and any other by-laws pertinent to the regulation and prohibition of noise in the Village of Dunnottar are hereby repealed.

DONE AND PASSED by the Council of the Village of Dunnottar, in Council duly assembled, at Dunnottar, in Manitoba, this 18th day of December, 2019.


Richard Gamble, Mayor


J.M. Thevenot, Administrator

Read a first time this	21 st	day of	November	A.D. 2018.
Read a second time this	20 th	day of	November	A.D. 2019.
Read a third time this	18 th	day of	December	A.D. 2019.