



RURAL MUNICIPALITY OF VICTORIA

Nuisance Noise By-Law

By-law No: 1347/2012

Being a By-law of the Rural Municipality of Victoria to regulate and prohibit Nuisance Noise.

WHEREAS Section 232 and 233 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 centres, 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;
 - c.1) subject to section 233.1, the condition and maintenance of vacant dwellings and non-residential building;
 - 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;
 - o) the enforcement of by-laws.

NOW THEREFORE be it and it is hereby enacted as a by-law of the Rural Municipality of Victoria as follows:

1.0 TITLE

- 1.1 This By-law may be referred to as the "Rural Municipality of Victoria Nuisance 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) "CAO" means the Chief Administrative Officer of the Municipality or his designate.
 - b) "By-Law Enforcement Officer" means the Designated Officer in Charge of by-law enforcement for the Rural Municipality of Victoria.
 - c) "Emergency" means any occurrence or set of circumstances including actual or imminent physical trauma or property damage which demands immediate action.

- d) "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.
- e) "Fire Chief" means the Fire Chief of the Holland or Cypress River Fire Departments as appointed from time to time.
- f) "Noise" means any loud or harsh sound.
- g) "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.
- h) "Motor Vehicle" means an automobile, motorcycle, truck and any other vehicle propelled or driven otherwise than by muscular power.
- i) "Motor Recreational Vehicle" means all recreational motorized vehicles whether or not duly licensed or registered, including, but not limited to, commercial or non-commercial racing vehicles, motorcycles, go-carts, snowmobiles, trail bikes, trimotos, quadmotos, amphibious craft and motor boats.
- j) "Occupant" means shall include owner, agent, lessee, occupier or person in control of premises.
- k) "Officer" means any Member of the Royal Canadian Mounted Police Force and any other police officer, police constable, peace officer, constable for the Province of Manitoba or other person appointed and employed by the Rural Municipality of Victoria for preservation and maintenance of the public peace.
- l) "Person" means any individual and includes firm, partnership, association, corporation, company or group of persons.
- m) "Premises" means a building or buildings including the associated land.
- n) "Residential Area" means any area where a person or persons maintain a residence, and without limiting the generality of the foregoing, shall only include areas zoned as General Development Area within the communities of Holland and Cypress River, pursuant to the Rural Municipality of Victoria Zoning By-Law.
- o) "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.
- p) "Municipality" means the Rural Municipality of Victoria.

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 Without restricting the generality of Section 3.1 hereof, the following shall be deemed likely to be Nuisance Noise:

- a) the Sound caused by the lighting and/or setting off of any explosive noise making device, including a firecracker or other fireworks, unless specifically authorized by the Fire Chief or CAO;
 - b) the Sound emanating from any musical instrument or loudspeaker, when as determined by an Officer is audible from a distance of thirty (30) meters or more, unless authorized by the CAO;
 - c) the Sound emanating from excavation or construction work of any nature between the hours of 10:00 P.M. of any day and 7:00 A.M. of the next following day, except on Sundays when no excavation or construction work is permitted;
 - d) 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, motorized toy or similar device used outdoors within any General Development Areas between the hours of 10:00 P.M. of any day and 7:00 A.M. of the next following day.
 - e) the Sound created by the use or operation of any drum, horn, bell, radio or mechanical loudspeaker, or other instrument or device or Sound producing, Sound re-producing, or Sound transmitting instrument of apparatus for the purposes of advertising or for attracting attention to any performance, show or sale or display of goods, wares or merchandise or which projects Noise or Sound into any street or other public place except where such Noise or Sound has been prior authorized by the CAO;
 - f) any loud, blasphemous, abusive, obscene or insulting language or singing or shouting or speaking in a boisterous manner;
- 3.3 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 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 in breach of any applicable land use provisions, and it is shown, to the satisfaction of the By-Law Enforcement Officer, Designated Officer or CAO, 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 parade authorized by the CAO;
- c) sound emanating from any street festival, event, block party or similar function authorized by the CAO;

- d) snow clearing, road maintenance and road construction vehicles and equipment operated by the Municipality or the Province of Manitoba or their agents and/or contractors;
- e) grass and field of play maintenance vehicles and equipment operated by the Municipality and the Province of Manitoba or their agents and/or contractors;
- f) sound emanating from the clearing of snow from private parking lots and driveways;
- g) sound emanating from the Fire Hall alarm, or 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) sound emanating from the use of any bell, chime or similar Sound for the purpose of calling persons to church and/or similar school services;
- i) the use or operation of Sound producing devices during the month of December in any year for the emanating of Christmas carols;
- j) the use, in a reasonable manner, of any apparatus, mechanism or device for the amplification of the human voice or of music on public property in connection with any duly approved public meeting, celebration or other public gathering; and,
- k) the lighting and setting off of fireworks, by certified persons, as a public display or celebration with the approval of the CAO;

5.0 CONTRAVENTION AND FINES

- 5.1 The Notice of Breach, as provided for in this Section, and to be issued by the By-Law Enforcement Officer, or other officer as designated in this by-law, for contravention of this By-Law shall be in the form as provided for in Schedule "A" attached hereto and forming part of this By-Law.
- 5.2 A Peace Officer may also issue a Common Offence Notice of the Province of Manitoba for contravention of this By-law.
- 5.3 Any Person who contravenes this By-law may be issued a Notice of Breach or a Common Offence Notice of the Province of Manitoba. by the By-Law Enforcement Officer and
- 5.5 Any such person who receives a Common Offence Notice shall dispose of the matter as set out in the Common Offense Notice.
- 5.4 Any such Person who receives a Notice of Breach may voluntarily dispose of the matter by attending at the Municipality Office during regular office hours within thirty (30) days of the date of the Notice of Breach to provide payment of the penalty or fine as follows:
 - a) to a penalty or fine of not less than One Hundred Dollars (\$100.00) for the first offense.
 - b) to a penalty or fine of not less than Two Hundred Dollars (\$200.00) for the second offense.
 - c) to a penalty or fine of One Thousand Dollars (\$1,000) for the third or subsequent offense and for each subsequent offense within twelve

(12) months of the first offense; and in default of payment, to imprisonment for not more than thirty (30) days.

- 5.5 If a Person served with a Notice of Breach under this By-Law fails to pay the fine as set out in the Notice of Breach within the thirty (30) day period, a Peace Officer or Designated Officer may lay an Information with respect to the contravention and a Summons will be issued for the Person to attend before a Provincial Court Judge, Magistrate or Justice of the Peace. Any Person found guilty for contravention of this By-law before a Provincial Court Judge, Magistrate or Justice of the Peace is subject to a fine and or penalties as set out in Section 5.4, plus all applicable court costs.
- 5.6 A fine or penalty levied and costs charged under this By-law pursuant to the Notice of Breach may be collected in any manner in which a tax may be collected or enforced under The Municipal Act.

6.0 SEVERABILITY

- 6.1 Wherever the provisions of any By-Law of Municipal Planning Scheme of the Municipality, or any By-Law or Municipal Planning Scheme administered by the Municipality impose overlapping or contradictory regulations over the control or prohibition of noise, or contain any restrictions covering any of the same subject matter contained herein, the most restrictive standard shall apply.
- 6.2 If any provision of this By-law is held to be invalid by any Court of competent jurisdiction, the remaining provisions of the By-law shall not be invalidated.

7.0 REPEAL

- 7.1 By-law No. 1093/91 of the Rural Municipality of Victoria is hereby repealed in its entirety.

DONE AND PASSED in Council duly assembled in the Rural Municipality of Victoria, in the Province of Manitoba this 14th day of November A.D., 2012.

"Originally Signed by Reeve Harold W. Purkess"
Reeve

"Originally Signed by CAO Y. Ivan Bruneau"
Chief Administrative Officer

Read a first time this	<u>12th</u>	day of	<u>September</u>	A.D.	<u>2012.</u>
Read a second time this	<u>10th</u>	day of	<u>October</u>	A.D.	<u>2012.</u>
Read a third time this	<u>14th</u>	day of	<u>November</u>	A.D.	<u>2012.</u>



RURAL MUNICIPALITY OF VICTORIA

SCHEDULE "A" – By-law No. 1347/2012

NOTICE OF BREACH – Nuisance Noise By-law No. 1347/2012

TO:	
Name: _____ Civic Address: _____ _____	Mailing Address: _____ _____ _____
<p>You are charged that on the _____ day of _____, 20____ you did unlawfully.</p> <p><input type="checkbox"/> Occupant <input type="checkbox"/> Property Owner</p>	
01	Make, continue to cause, or allow to be made or continued by whatever means a Nuisance Noise.
02	Light or set off an explosive or noise making device, including fire crackers or other fireworks, without having obtained the authorization of the Fire Chief or the CAO of the Rural Municipality of Victoria (Section 3.2 (a)).
03	The sound emanating from a musical instrument or loudspeaker, audible from a distance of 30 meters without prior authorization from the CAO or his Designate of the Rural Municipality of Victoria (Section 3.2 (c)).
04	The sound emanating from excavation or construction work between the hours of 10:00 P.M. and 7:00 A.M. of the following day or excavation or construction work on a Sunday.
05	The use and/or operation of a power tool, motorized lawn mower, snow clearing device, chain saw, leaf blower, motorized garden tiller, weed/grass trimmer, motorized toy or similar device used outdoors in a residential area between 10:00 P.M. and 7:00 A.M.
06	The use and/or operation of a drum, horn, bell, radio or mechanical loudspeaker or other instrument or device or sound producing, sound re-producing, or sound transmitting instrument or apparatus for the purpose of advertising or for attracting attention to any performance, show or sale or display of goods, wares, or merchandise or which projects noise or sound into any street or other public place.
07	Loud, blasphemous, abusive or insulting language or singing or shouting or speaking in a boisterous manner.
08	The sound emanating from power model vehicle, motor vehicles, motorcycles, motor boat, outboard motor or motorized recreational vehicle between the hours of 10:00 P.M. and 7:00 A.M.
09	OTHER: _____
<p>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 he/she exercised due diligence in a bona fide effort to control and abate such Nuisance Noise.</p>	
FINE AMOUNT: \$ _____ .00	<p>1ST offense, (min fine \$100.00)</p> <p>2nd offense (min fine \$200.00)</p> <p>3rd or subsequent offense (max fine \$1,000)</p>
<p><i>Disposition of this Charge may be made by attending the Administration offices during office hours (8:30 AM – 12:00 noon and 1:30 PM – 4:30 PM – Mon – Fri) within 30 days and pay the above noted fine, at the Rural Municipality of Victoria, 130 Broadway Street, P.O. Box 40, Holland, Manitoba, R0G 0X0.</i></p>	
<p>IF YOU FAIL TO VOLUNTARILY DISPOSE OF THIS CHARGE within 30 days of the date on the Notice of Breach, a fine or penalty levied and costs charged under this By-law may be collected in any manner in which a tax may be collected or enforced under The Municipal Act. You may in addition be subsequently charged and required to appear before a Provincial Court Judge, Magistrate or Justice of the Peace.</p>	
<p>Dated at _____, in the Province of Manitoba this _____ day of _____, 20_____.</p> <p style="text-align: right;">_____</p> <p style="text-align: right;">Designated Officer, Rural Municipality of Victoria</p>	