

RURAL MUNICIPALITY OF WEST INTERLAKE

BY-LAW NO. 5-2023

Being a By-Law to regulate and prohibit unnecessary, harmful and nuisance noise within the Rural Municipality of West Interlake.

WHEREAS Section 232 and 233 of *The Municipal Act*, L.M. in part as follows:

- 232 (1) A Council may pass by-laws for municipal purposes respecting the following:
- (a) The safety, health, protection and well-being of people, and the safety and protection of property.
 - (b) people, activities and things in, or near public places 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;
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(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.
- 233 **A by-law under clause 232(1)(c) (subject to Section 233 activities or things in or on private property) may contain provisions only in respect of**
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(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.

AND WHEREAS, it is deemed advisable to enact a By-law in pursuance of the authority vested in the Municipality under the relevant sections of the Municipal Act, in consideration of the fact that excessive sound disturbances disrupt peace, pose a threat to public order, and constitute a substantial hazard to public health, welfare, safety, and overall quality of life. Furthermore, recognizing that individuals are entitled to an environment free from undue sound disturbances that could be detrimental to their well-being or adversely affect their quality of life;

AND WHEREAS, it is the objective of this By-law to prohibit all forms of loud, unnecessary, or unusual noises, as well as any noise that causes annoyance, disturbance, harm, or jeopardizes the tranquility, rest, health, harmony, or well-being of the residents of the Rural Municipality of West Interlake;

NOW THEREFORE, be it enacted by the Council of the Rural Municipality of West Interlake, duly convened in council assembly, that the following By-law is hereby established to govern matters related to the investigation, rectification, enforcement, or proceedings pertaining to noise nuisances:

1. Title

This By-Law may be referred to as "The Rural Municipality of West Interlake Noise By-law".

2. Definitions

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*

- (a) "Audible sound" are the vibrations of air molecules that travel through the air in the form of sound waves. When these sound waves reach our ears, they are detected by the auditory system, converted into electrical signals, and then interpreted by the brain as sound.
- (b) "CAO" means the Chief Administrative Officer of the Rural Municipality of West Interlake or their designate.
- (c) "Commercial area" means an area zoned and defined in municipality's Zoning by-law.
- (d) "Common offence notice" means a written notice issued by authorities for minor offenses. It informs the recipient of the alleged offense, details of the incident, and the associated penalty or fine.
- (e) "Designated Officer" means a by-law enforcement officer, building inspector or other official appointed by council, from time to time, to enforce this by-law, or, in the absence of such an appointment, the Chief Administrative Officer is, by this by-law, appointed as the designated officer.
- (f) "Decibels (dB)" are a unit used to measure the intensity or loudness of sound. In general, the threshold of human hearing is considered to be around 0 dB, and normal conversation levels are typically around 60 dB to 70 db.
- (g) "Emergency" means any occurrence or set of circumstances involving actual or imminent trauma or property damage necessitating immediate action.
- (h) "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.
- (i) "Fire Chief" means the Fire Chief of the Fire Department of the Rural Municipality of West Interlake as appointed from time to time.
- (j) "Municipality" means the Rural Municipality of West Interlake.
- (k) "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.
- (l) "Officer" means any member of the Royal Canadian Mounted Police Force and any other police officer, police constable, constable, CAO, designated officer, or other person appointed and employed by the Rural Municipality of West Interlake for preservation and maintenance of the public peace.
- (m) "Owner" means the person or persons, or the corporation shown as the registered owner on the latest revised assessment rolls of the Municipality.
- (n) "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.
- (o) "Person" means any individual and includes firm, partnership, association, corporation or group of persons and where the context requires shall include the plural s well as the singular.

- (p) "Point of Reception" means any point on any premises where sound, originating from other premises, is received.
- (q) "Premises" means a building or buildings including the associated land.
- (r) "Property" means real property as defined in The Municipal Assessment Act within the Rural Municipality of West Interlake whether or not there is situated thereon a dwelling house or any building.
- (s) "Recreational Vehicle" means any motorized recreational vehicle, whether licensed and registered or not, including, but not necessarily restricted to, racing cars, motorcycles, go-carts all terrain vehicles, off road vehicles, snowmobiles, trail bikes, amphibious craft, jet skis and motorboats.
- (t) "Residential Area" means any area where a person or persons maintain a residence, and without limit generality of the foregoing, shall include all areas zoned as the residential pursuant to the Rural Municipality of West Interlake and all other areas where residences are maintained.
- (u) "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compressions and rarefaction of that medium and the description of sound may include any characteristic of such sound, including duration, intensity and frequency.
- (v) "Vehicle" means an automobile, motorcycle, truck, bus and any other vehicle propelled or driven by means other than by muscular power, solar power, or wind.

3.0 This By-law applies to all property and to all owners and occupiers of property within the Rural Municipality of West Interlake.

4.0 Prohibited Noises

4.1 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.

4.2 Without restricting the generality of Section 4.1, hereof, the following shall be deemed to be Nuisance Noise:

Restricted between the hours of 11:00 p.m. of any day and 7:00 a.m. of the following day:

- (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 instruments or loudspeaker, when as determined by a designated Officer has a decibel reading greater than 75db within a residential or commercial structure.
- (c) The sound emanating from excavation or construction work of any nature unless authorized by the Officer or CAO.
- (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, recreational vehicle or similar device used outdoors in any Residential area.
- (e) The sound emanating from any motorized vehicle(s) for a duration of 30 minutes or longer unless authorized by the Officer or CAO.

(f) 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 or apparatus for the purposes of advertising or for attracting attention to any performance, show or sale or display of goods, wares or merchandise 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;

4.3 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.

5.0 Permitted Noises

5.1 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 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 to reduce the intensity.
- (b) Sound emanating from any concert, circus, fair, parade, street festival, block party or similar activity authorized by a Resolution of Council or CAO.
- (c) 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.
- (d) Grass and field of play maintenance vehicles and equipment operated by the Municipality or the Province of Manitoba or their agents and/or contractors.
- (e) The use of any bell, chime or similar Sound for the purpose of calling persons to church and/or similar school services.
- (f) The use or operation of Sound producing devices during the month of December in any year for the emanating of Christmas carols.
- (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 an emergency warning siren.
- (h) sound emanating from the sound system of recognized Recreational facilities within the Municipality during special events.
- (i) the use, in 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, celebrations or other public gatherings.

6.0 Contravention and Fines

- (a) The Notice of Breach, as provided for in this Section, and to be issued by an Officer 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. An Officer may also issue a Common Offence Notice of the Province of Manitoba for contravention of this By-law.
- (b) Any Person who contravenes this By-Law shall be issued a Notice of Breach or a Common Offence Notice of the Province of Manitoba by the Officer and by the Officer and such Person may voluntarily dispose of the matter by attending at the Municipal Office during regular office hours within thirty (30) days of the date of the Notice of Breach or Common Offence Notice and pay to the CAO the fine as set out in the Notice of Breach or Common Offence Notice which fine shall be as follows:
- (i) Two Hundred Dollars (\$200) for the first offence.
 - (ii) Five Hundred Dollars (\$500) for the second offence.
 - (iii) One Thousand Dollars (\$1,000) for each subsequent offence within six (6) months of the second offence, and in default of payment to be levied to their tax bill.
- (c) 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*.

7.0 Severability

7.1 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.

8.0 Repeal

8.1 By-Law 4/2013 and any amendments is hereby repealed in its entirety.

DONE AND PASSED as a by-law of the Rural Municipality of West Interlake at the town of Ashern, Manitoba in the Province of Manitoba in Council duly assembled, this 5th day of December , 2023.

RM OF WEST INTERLAKE



Reeve Arnthor Jonasson



CAO Bernardo Pasco

Read a first time this 26th day of September, A.D. 2023

Read a second time this 17th day of October, A.D. 2023

Read a third time and **PASSED** this 5th day of December, A.D. 2023