

RURAL MUNICIPALITY OF OAKLAND

By-law No. 1292/12

BEING A BY-LAW of the Rural Municipality of Oakland to regulate and prohibit the making of noise within the Municipality.

WHEREAS The Municipal Act provides 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;
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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;
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- (m) local transportation systems;
- (n) businesses, business activities and persons engaged in business;
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- (o) the enforcement of by-laws.

232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division

- (a) regulate or prohibit;
- (b) adopt by reference in whole or in part, with any changes the council considers necessary or advisable, a code or standard made or recommended by the Government of Canada or a province or a recognized technical or professional organization, and require compliance with the code or standard;

233 A by-law under clause 232(1) (c)(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 the opinion of the Council of the Rural Municipality of Oakland that it is necessary to regulate and prohibit certain activities within the Municipality, that are or could become a nuisance as a result of the noise which may be created by those activities.

NOW THEREFORE the Council of the Rural Municipality of Oakland in Council duly assembled enacts as a by-law, the following:

1. That this By-law shall be known as the ``Noise By-law``.

2. **Definitions:**

Chief Administrative Officer means the Chief Administrative Officer of the Rural Municipality of Oakland, or her designate;

Designate means any person authorized by the Authority Having Jurisdiction to enforce this by law on behalf of the Authority Having Jurisdiction;

Municipality means the Rural Municipality of Oakland;

Enforcement means any police officer, peace officer or constable;

Noise Nuisance means any loud, unnecessary or unusual noise which annoys, disturbs, injures, endangers or detracts from the comfort, health, repose, peace or welfare of any person;

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;

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) **Prohibited Noises:**

a) Except to the extent it is allowed by this By-law, no person shall make, continue or cause to be made or continued, any loud, unnecessary or unusual noise or any noise whatsoever which either annoys, disturbs, injures, endangers or detracts from the comfort, repose, health, peace or safety of other persons within the limits of the Municipality.

b) Without limiting the generality of the foregoing, the noises hereinafter set forth and described are unnecessary and unusual noises which either annoy, disturb, endanger or detract from the comfort, repose, health, peace or safety of other persons within the limits of the Municipality and are therefore prohibited:

i) The noises caused by the discharge or the firing of any sort of firecracker, grenade, fireworks, or the operation of any other sort of noise making device unless specially authorized in writing by the Municipality's Chief Administrative Officer;

ii) The sounding of any bell, horn, siren, or other signal device on any motor vehicle, motorcycle, bicycle, or other vehicle of whatsoever kind, except when required by law;

iii) The sound or noise from or created by any radio or phonograph, or any musical or sound-producing instrument of whatsoever kind, when such radio or phonograph or instrument is played or operated in such a manner or with such volume to enable it to be heard at a distance of 100 (One Hundred) feet;

iv) The grating, grinding or rattling noise or sound caused by a condition of disrepair or maladjustment of any motor vehicle, motorcycle, or other vehicle whatsoever or part or accessory thereof, except when such vehicle is being driven or towed for the purpose of being repaired or adjusted;

v) The blowing of any steam or air whistle attached to or used in connection with any stationary boiler or other machine or mechanism, except for the purpose of giving notice to workmen of the time to commence or cease work or as a warning of danger;

vi) The discharge into the open air of the exhaust of any steam engine or any machine or apparatus operated thereby, stationary internal combustion engine, motor vehicle or motorcycle, except through a muffler or other device which effectively prevents loud unnecessary or unusual noises;

vii) Any noise between the hour of 10:00 P.M. of any day and 7:00 A.M. of the next following day from:

(a) any excavation or construction work whatsoever, including the erecting, demolition, alteration or repair of any building; intermittent explosions occurring in the course or in connection with any manufacturing process, except in case of urgent necessity and then only when authorized in writing by the Municipality's Chief Administrative Officer;

(b) the excavation, loading and hauling of gravel, except in case of urgent necessity, and then only when authorized in writing by the Municipality's Chief Administrative Officer;

viii) The noise or 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-reproducing, 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, ware or merchandise or which projects noise or sound into any street or other public place unless used for the purpose of advertising some patriotic or other public object and unless authorized in writing by the Municipality's Chief Administrative Officer;

ix) Crying, shouting or loud speaking creating or amounting to a public nuisance in or adjacent to any public street or place;

x) The sound or noise from or created by the squealing of tires or the operation of a motor vehicle with exhaust systems that do not comply with the provisions of the Highway Traffic Act or that may emit noise contrary to the provisions of this section.

4) **Permitted Noises:**

- a) The operation of farm equipment involved in activities necessary to the operation of an agriculture enterprise;
- b) The use in a reasonable manner of any apparatus or mechanism for the amplification of the human voice or music in a public park or any other commodious space in connection with any public election meeting, public celebration or other reasonable activity between the hours of 7:00 o'clock a.m. of any day and 2:00 o'clock a.m. of the next following day;
- c) Any military or other band or any parade, operating under written permission first obtained from the Municipality's Chief Administrative Officer;
- d) Any vehicle of the police or fire department or any ambulance or any public service or emergency vehicle while answering a call;
- e) Any sound arising from the operation of any railway which operates under the Railway Act of Canada or from any plan or work in connection with any such railway;
- f) Any case of public convenience or necessity;
- g) The ringing of church or school bells;
- h) Any reasonable sounds or noises emanating from a manufacturing enterprise located in an appropriately zoned area of the municipality.

5) **Penalties:**

- .1 Any person, corporation or business that contravenes, refuses, neglects, omits or fails to obey or observe any provisions of this By-law is guilty of an offence and is liable on summary conviction to a fine of no less than \$50.00, nor more than \$1,000.00, or to imprisonment for a period not exceeding 30 days, or to both such fine and imprisonment, for each offence.
- .2 Where a contravention of this By-law continues for more than one day, the person responsible is guilty of a separate offence for each day that it continues;
- .3 In any proceeding under this By-law, any and all persons found in or upon or 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 occupants, unless the contrary is proven by the owner or occupant so charged.

DONE AND PASSED in open Council assembled in Council Chambers, in Nesbitt, Manitoba, in the Province of Manitoba, this day of , 2012.

RURAL MUNICIPALITY OF OAKLAND

Reeve

Chief Administrative Officer

Read a first time this 20th day of June, 2012.
Read a second time this 20th day of June, 2012.
Read a third time this 18th day of July, 2012.