

RURAL MUNICIPALITY OF CORNWALLISPROVINCE OF MANITOBA

BEING A BY-LAW of the Rural Municipality of Cornwallis 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;
- ...
- (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;
- ...
- (m) local transportation systems;
- (n) businesses, business activities and persons engaged in business;
- (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) deal with any development, activity, industry, business, or thing in different ways, or divide any of them into classes and deal with each class in different ways;

233 A by-law under clause 232(1)(c) (activities or things 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, odours, unsightly property, fumes and vibrations.

AND WHEREAS it is the opinion of the Council of the Rural Municipality of Cornwallis that it is necessary to regulate and prohibit certain activities 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 Cornwallis 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:
 - a) "Chief Administrative Officer" means the Chief Administrative Officer of the Rural Municipality of Cornwallis or his designate.
 - b) "Municipality" means the Rural Municipality of Cornwallis.
 - c) "Council" means the council of the Rural Municipality of Cornwallis.
 - d) "Off-Road Vehicle / ORV" means any wheeled or tracked motorized vehicle designed or adapted for cross-country travel on land, water, ice, snow, marsh, swamp land or other natural terrain and includes, but is not limited to,
 - (a) a snowmobile,

- (b) an all-terrain vehicle,
 - (c) a mini-bike, dirt-bike and trail-bike,
 - (d) a miniature vehicle such as a dune or sport buggy,
 - (e) an off-road maintenance machine,
 - (f) an amphibious vehicle, and
 - (g) a four-wheel drive motor vehicle or motorcycle that is being driven elsewhere than on a highway, whether or not it is registered under *The Drivers and Vehicles Act*,
- but does not include agricultural equipment, infrastructure equipment, or a garden tractor, lawnmower, lawn tractor or golf cart;

- e) "Person" means a natural person, a partnership, a firm, a business, an association, a credit union, a co-operative, a corporation or a municipality.
- f) "Premises" means a building or buildings including the associated land.

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 by resolution of Council.
 - 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) The starting, driving, turning or stopping a motor vehicle (includes motorcycle or ORV), or the acceleration of the motor of a motor vehicle, motorcycle or ORV, in such a manner as to cause any loud and unnecessary noise in, or from, the engine, exhaust system or braking system.
 - viii) 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 by resolution of Council;
 - (b) the excavation, loading and hauling of gravel, except in case of urgent necessity, and then only when authorized by resolution of Council;
 - (c) No other exemptions to (a) or (b) will be received or given by Council.
 - ix) 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 by resolution of Council.
 - x) Crying, shouting or loud speaking creating or amounting to a public nuisance in or adjacent to any public street or place;

- xi) 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.
 - xii) The sound or noise created from the use of engine retarder brakes on any vehicle driven within the Rural Municipality of Cornwallis, except when used in an emergency where it is necessary in the circumstances to do so.
- 4) The property owner, lessee, occupier or Person in control of a Premises is responsible for noise created by invitees, guests or other persons on the premises in the same manner as the person actually creating the noise.
- 5) 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 1:00 o'clock a.m. of the next following day;
 - c) Any military or other band or any parade, operating under written permission first obtained by resolution of Council;
 - 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.

6) Penalties:

Any person violating any of the provisions of this by-law shall upon conviction before a Provincial Court Judge or Justice of the Peace, be liable to a penalty not exceeding \$500.00 (Five Hundred Dollars) and costs, and in default of payment thereof, to imprisonment in the common gaol for a period of not exceeding 30 days unless the said penalty and costs are sooner paid.

7) THAT this By-law shall come into effect from the day it received final reading. By-law No. 1564/05/2000 and 1582/04/2003 are hereby REPEALED.

DONE and PASSED by the Council of the Rural Municipality of Cornwallis duly assembled this 17th day of August A.D., 2021.

THE RURAL MUNICIPALITY OF CORNWALLIS
Per


REEVE


CHIEF ADMINISTRATIVE OFFICER

Read a first time this 20th day of July, A.D., 2021
Read a second time this 17th day of August, A.D., 2021
Read a third this 17th day of August, A.D., 2021