

THE RURAL MUNICIPALITY OF PRAIRIE LAKES

BY-LAW NO 8, 2020

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF PRAIRIE LAKES TO REGULATE HARMFUL NOISE WITHIN THE BOUNDARIES OF THE MUNICIPALITY.

WHEREAS Section 232 (1) (a), (b) and (c) of *The Municipal Act* 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;

AND WHEREAS subsection 233 (d) of *The Municipal Act* provides in part as follows;

233 A by-law under clause 232(1)(c) (activities or things in or on private property) may contain provision 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, weed, odours, unsightly property, fumes and vibrations.

AND WHEREAS it is deemed advisable to exercise the powers set out in the said Sections of *The Municipal Act* as excessive sound is a serious hazard to the public health and welfare, safety and quality of life and the public has a right to and should be ensured an environment free from excessive sound that may be prejudicial to their health or welfare or safety or diminish the quality of life.

NOW THEREFORE the Council of the Rural Municipality of Prairie Lakes in session duly assembled enacts as follows:

1. THAT this by-law shall be referred to as the “Noise Control By-Law” and shall, for the purpose of this by-law apply to and encompass the entire Municipality of Prairie Lakes.
2. DEFINITIONS:

“Council” means the Council of the Rural Municipality of Prairie Lakes.

“Emergency” means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage threatened or caused by an emergency.

“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.

“Enforcement Officer” means

- a) A designated officer or other person appointed and employed by the Rural Municipality of Prairie Lakes who has the authority to enforce, implement or administer all or part of this By-law; and
- b) A member of the Royal Canadian Mounted Police or any Police officer.

“Municipality” means the Rural Municipality of Prairie Lakes or the area contained within the boundaries thereof.

“Noise Nuisance” means any unreasonably loud or unusual sounds which are likely to, or annoy, injure or disturb the health, peace, or safety of any person as determined by an Enforcement Officer.

“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.

“Owner” means the person or persons or the corporation shown as the registered owner on the latest revised assessment rolls of the Municipality.

“Recreation 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, and trail bikes.

“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.

“Weekday” means Monday through Saturday, inclusive unless it falls on a holiday, as defined in the Interpretation Act, C.C.S.M. c. 180, as amended or replaced from time to time.

3. THAT except to the extent permitted by this by-law, no person shall make, continue, or cause to be made or continued, any noise nuisance, and specifically the following acts, among other, and the causing thereof, are declared to be in violation of this by-law, namely:
 - (a) No person owning or possessing or harbouring any animal or bird shall allow it to create a noise nuisance.
 - (b) Except to the extent, as may hereinafter be permitted by this by-law no person shall operate or permit the operation of any power or manual equipment, machinery, device or motor vehicle in such a manner as to create a noise nuisance.
 - (c) No person shall operate or permit the operation of any mechanical powered saw, drill, sander, grinder, lawn or garden tool, lawn mower or tractor, snowblower, or similar device used outdoors, to create a noise nuisance at the point of reception at any time except between the hours of 6:00 A.M. and 11:00 P.M. on weekdays and Saturdays and between the hours of 8:00 A.M. and 11:00 P.M. on Sundays.
 - (d) No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, loudspeaker, public address system, sound amplifier or similar device in a residential district which produces, reproduces or amplifies sound in such a manner as to create a noise nuisance at a point of reception at any time.
 - (e) No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, loudspeaker, public address system, sound amplifier or similar device in a commercial district which produces, reproduces or amplifies sound in such a manner as to create a noise nuisance at a point of reception, unless used for purposes of advertising some patriotic or other public object and unless a permit has been used under the Liquor Control Act.
 - (f) No person shall be shouting, or otherwise, whether by amplified sound or other, cause a noise nuisance within the boundaries of the Municipality.
 - (g) No person shall repair, rebuild, modify or test any motor vehicle, motorcycle, motor boat, outboard motor or motorized recreational vehicle in such a manner as to create a noise nuisance at a point of reception between the hours of 11:00 P.M. and 7:00 A.M. of the following day.

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 they exercised due diligence in a bona fide effort to control and abate such Nuisance Noise.

4. THAT exceptions to the provisions of this by-law shall not apply to the following:
 - (a) The existence of an emergency or the emission of sound in the performance of emergency

work unless such sound is clearly of a longer duration, or nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

- (b) Any agent, employee, servant or contractor of the Municipality performing services for or on behalf of the Municipality.
 - (c) Sound emanating from the clearing of snow from private parking lots and driveways.
 - (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 farmer or agent or employee of a farmer operating farm equipment during the normal course of farming operation.
 - (f) The ringing of church or school bells.
 - (g) Concerts, circuses, fairs, parades or any like activity where approval have been granted by the Municipality.
 - (h) Any activity, work or undertaking by the Municipal employees if required to respond to an emergency situation.
 - (i) The lighting and setting off of fireworks, by certified persons, as a public display or celebration with the approval of the local Fire Chief.
 - (j) Works being conducted by the Province of Manitoba, Manitoba Hydro, and Public Works Utility Departments.
5. THAT any person who contravenes, refused, neglects, omits or fails to obey or observe any provision of this by-law is guilty of an offense and liable of a fine not less than:
- a. Fifty dollars (\$50.00) for a first offense;
 - b. One hundred dollars (\$100.00) for a second offense;
 - c. Two hundred dollars (\$200.00) for a third offense;
 - d. Three hundred dollars (\$300.00) for each subsequent offense.
6. THAT all fines imposed are a debt owed by the person who violates and/or the owner of the property on which the violation occurs, any of the provisions of this by-law to the municipality and may be recovered by the municipality in a court of law or may be collected or enforced under *The Municipal Act*.

DONE AND PASSED by the Council of The Rural Municipality of Prairie Lakes, in Council assembled this 14th Day of July, A.D. 2020.

Reeve.

Chief Administrative Officer.

First reading: *June 9th, 2020*
Second reading: *July 14th, 2020*
Third reading: *July 14th, 2020*