

RURAL MUNICIPALITY OF WHITEHEAD
NOISE BY-LAW NO. 2023-08

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF WHITEHEAD to regulate and prohibit unnecessary and harmful noise within the Municipality

WHEREAS clause 231(a) *The Municipal Act* of Manitoba C.C.S.M. c. M225, and amendments thereto (*"The Municipal Act"*) provides council of a municipality with the power to pass By-laws that give broad authority to the council and to respect its right to govern the municipality in whatever way the council considers appropriate, within the jurisdiction given to it under *The Municipal Act* and other Acts as to enhance the ability of the council to respond to present and future issues in the municipality;

AND WHEREAS section 232(1)(a) of *The Municipal Act* authorizes a Municipality to pass By-laws for the safety, health, protection and well being of people and the safety and protection of property;

AND WHEREAS section 232(1)(b) of *The Municipal Act* authorizes a Municipality to pass By-laws for 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;

AND WHEREAS section 232(1)(c) of *The Municipal Act*, subject to section 233, authorizes a Municipality to pass By-laws respecting activities or things in or on private property;

AND WHEREAS section 232(1)(n) of *The Municipal Act* authorizes a Municipality to pass By-laws for businesses, business activities and persons engaged in business;

AND WHEREAS section 233(d) of *The Municipal Act* a By-law under clause 232(1)© may contain provision on in respect of 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 section 232(1)(n) of *The Municipal Act* authorizes a Municipality to pass By-laws for businesses, business activities and persons engaged in business;

AND WHEREAS is deemed advisable to exercise the powers set out in *The Municipal Act* as excessive sound is a serious hazard to the public health and welfare, safety and quality of life;

AND WHEREAS 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 Whitehead enacts as follows:

TITLE

1.00 This by-law may be referred to as the "The Rural Municipality of Whitehead Noise By-law"

2.00 DEFINITIONS

2.1 In this By-law:

- (a) "Municipality" means the Rural Municipality of Whitehead;
- (b) "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage threatened or caused by an emergency;
- (c) "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;

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- (d) “Emergency Vehicle” means a vehicle used by a police force, a vehicle used by a fire department, a vehicle used by an ambulance service; an authorized emergency vehicle, a vehicle used to respond to emergencies and operated under the authority of a government emergency organization, a vehicle used for the purpose of maintaining a public utility and designated as an emergency vehicle by a traffic authority; or a vehicle not ordinarily used for emergency purposes that is operated by a volunteer, part time or on-call fire-fighter or emergency medical responder for the purpose of responding to a fire, medical or other emergency;
- (e) “Noise” means any unreasonably loud or unusual sounds which are likely to, or annoy, injure or disturb the health, peace, or safety of any person;
- (f) “RS” means the Residential Serviced Zone as defined in the Municipality’s Zoning By-Law;
- (g) “RMH” means the Residential Mobile Home Zone as defined in the Municipality’s Zoning By-Law;
- (h) “GD” means the General Development Zone as defined in the Municipality’s Zoning By-Law;
- (i) “RR2” and “RR5” means the Rural Residential Zones as defined in the Municipality’s Zoning By-Law;
- (j) “Owner” means the person who is an owner of a freehold estate in the property, a person identified on the certificate of title as the owner or a person shown as the registered owner according to the Municipality’s assessment roll;
- (k) “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;

3.00 PROHIBITED NOISES

3.1 Except where otherwise permitted by this By-law, no person shall make, continue, cause or allow to be made or continued, by whatever means, any noise which does or is likely to annoy, disturb, injure, endanger or detract for the peace, health or safety of any other person;

3.2 Without restricting the generality of 3.1, the following shall be deemed likely to annoy, disturb, injure, endanger or detract for the peace, health or safety of any other person;

- (a) The sound caused by the discharge of a gun or other firearm, grenade, or any other explosive or noise making device, excluding a firecracker or other fireworks, unless specifically authorized by Council or the RCMP in the RS, RMH, GD, RR2 and RR5 zones;
- (b) The sounding of any auditory warning device, including but not limited to a bell, burglar alarm, horn, or siren, except when required by law or in order to give warning of the existence of a present or impending dangerous situation;
- (c) The sound emanating from an improperly operated or maintained vehicle, including the squealing of tires, the operation of a vehicle with an improperly maintained or otherwise deficient exhaust system and those noises which emanate from a vehicle by reason of its state of disrepair;
- (d) The sound resulting from the operation of an internal combustion engine, whether situated within a vehicle or otherwise, except when used in conjunction with an exhaust system and muffler which effectively prevents the emanating of loud or unusual noises;
- (e) Any loud, blasphemous, abusive, obscene or insulting language or singing or shouting or speaking in a boisterous manner;

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4.00 PROHIBITED ACTIVITIES BETWEEN THE HOURS OF 11:00PM TO 7:00 AM

4.1 No person may do, cause to be carried out or allow the following activities after 11:00 pm and before 7:00 am;

- (a) Lightening or setting off of any explosive noise making devise, including a firecracker or other fireworks unless authorized by the Fire Chief or Council;
- (b) Excavation or construction work of any nature;
- (c) Use and/or operation of any power tool, motorized lawn mower, snow clearing device, chainsaw, leaf blower, motorized garden tiller, weed/grass trimmer or similar device used outdoors in any RS, RMH, GD, RR2 or RR5 zone;
- (d) 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 good, wares or merchandise which projects noise or sound into any street or other public place;
- (e) Any loud, excessive, or continual barking, howling, wailing, caterwauling or other sound caused by any domestic animal

5.00 PERMITTED NOISES

5.1 None of this by-law shall apply to sound resulting from;

- (a) 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 Council 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;
 - (iii) Events that generate noise or can be considered a nuisance outside of the allowable hours provided herein such as but not limited to a concert, circus, fair, parade, street festival, block party or similar activity authorized by a resolution of Council;
- (b) Normal farming practices or operation of agricultural machinery/equipment being used for agricultural purposes;
- (c) Snow clearing, road maintenance and road construction vehicles and equipment operated by the Municipality and/or the Province of Manitoba or their agents and/or contractors;
- (d) Grass and field of play maintenance vehicles and equipment operated vby the Municipality and/or Province of Manitoba or their agents and/or contractors;
- (e) The Fire Hall alarm, or the sirens of any emergency vehicles while engaged in providing an emergency response or during testing of an emergency warning siren;
- (f) The sound system of sports complex, area, curling rink and community centres;
- (g) A bell, chime or similar sound for the purpose of calling persons to school and/or church services;
- (h) The use of any bell, whistle or similar sound in conjunction with the operation of the railway locomotive, engine or other rolling stock when used in accordance with other applicable laws and in particular the Railway Act of Canada;

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- (i) Work performed to include but not limited to demolition of buildings during the term of an emergency;

6.00 OWNER RESPONSIBILITY

6.1 The obligation for compliance under this By-law includes the Owner of the Premises upon which there is a contravention of the By-Law.

7.00 CONTRAVENTION AND FINES

7.1 Each separate provision of this By-law shall be deemed independent of all other provisions herein.

7.2 If any provision of this By-law is declared to be invalid, all other provisions thereof shall remain valid.

7.3 Any person who fails to comply or contravenes any provision of this By-law is guilty of an offence and is liable, upon summary conviction to a fine in an amount of not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00) each day the offence is permitted to continue. Each day that the said offence continues shall constitute a separate offence and shall be punishable as an offence.

7.4 Any costs associated with or resulting from enforcing this By-law are in addition to any such fine and are an amount owing to the Municipality and may be collected in any manner in which a tax may be collected or enforced under *The Municipal Act*.

8.00 REPEAL

8.1 By-law 1909 be and is hereby repealed.

9.00 COMING INTO FORCE

9.1 This By-law comes into force on the day of passage.

DONE AND PASSED as a By-law of the Rural Municipality of Whitehead by the Council, assembled in the Council Chambers this 11th day of December, 2023.

Originally Signed by
Trevor Tuttosi

Reeve

Originally Signed by
Christine Burton

Interim Chief Administrative Officer

Read a first time this	14 th	day of	November	A.D.	2023
Read a second time this	11 th	day of	December	A.D.	2023
Read a third time this	11 th	day of	December	A.D.	2023