

THE RURAL MUNICIPALITY OF WEST ST. PAUL

"THE NOISE CONTROL BY-LAW"

BY-LAW NO. 5/2006

Being a by-law of The Rural Municipality of West St. Paul to provide for the regulation and prevention of noise and to repeal By-law No. 14/87.

WHEREAS subsection 232(1) (a) (b) (c) of The Municipal Act, S.M. 1996, cap M225, 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 sub-section 233 (d) provides of The Municipal Act, S.M. 1996, Cap M225, provides in part as follows:

"233 A by-law under clause 232 (1) (c) activities or things in or on private property may contain provisions only in respect of

- (c) 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 the Council of The Rural Municipality of West St. Paul deem it expedient and in the public interest for the regulation and prevention of noise within the Municipality;

NOW THEREFORE The Council of The Rural Municipality of West St. Paul, in Council duly assembled, enacts as follows:

1.00 SHORT TITLE:

1.01 THAT this By-law be referred to as "THE NOISE CONTROL BY-LAW".

2.00 DEFINITIONS:

2.01 THAT unless the context otherwise requires, where used in this By-law:

2.02 "Commercial, Industrial or Residential District" means the various zoning districts as defined in the zoning by-law of The Rural Municipality of West St. Paul;

2.03 "Construction" means any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or of public or private right-of-ways, structures, utilities or similar property;

2.04 "Demolition" means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property;

- 2.05 "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage threatened or caused by and emergency;
- 2.06 "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;
- 2.07 "Motor Vehicle" means an automobile, motorcycle, truck and any other vehicle propelled or driven otherwise than by muscular power;
- 2.08 "Motorized Recreational Vehicle" means all recreational motorized vehicles whether or not licensed or registered, including, but not limited to commercial or non-commercial racing vehicles, motorcycles, go-carts, snowmobiles, trail bikes, all terrain vehicles, amphibious craft and motor boats;
- 2.09 "Noise Nuisance" means any loud, unnecessary or unusual sound or any sound whatsoever which either annoys, disturbs, injures, endangers or distracts from the comfort, repose, health, peace or safety of any person;
- 2.10 "Person" means any individual, firm, partnership, association, corporation, company or organization of any kind;
- 2.11 "Point of Perception" means any point on any lands or premises where sound, originating from other land or premises, is received;
- 2.12 "Powered Model Vehicle" means any self-propelled airborne, waterborne, or landborne airplane, vessel or vehicle which is not designated to carry a person, including, but not limited to any model airplane, boat, car or rocket;
- 2.13 "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarification of that medium. The description of sound may include any characteristics of such sound, including duration, intensity and frequency;
- 2.14 "Municipality" means the Rural Municipality of West St. Paul.
- 3.00 PROHIBITED ACTS:
- 3.01 THAT except to the extent permitted by this by-law, no person shall make, continue, cause or allow to be made or continued any noised nuisance.
- 3.02 THAT the following acts, among others, and the causing thereof, are declared to be in violation of this by-law. The said enumeration shall not be deemed to be exclusive, namely:
- (a) Owning, possessing or harbouring any animal or bird which creates a noise nuisance;
  - (b) 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;

- (c) Operating or permitting the operation of any mechanical powered saw, drill, sander, grinder, lawn or garden tool, snow blower or similar device used outdoors which creates a noise nuisance on weekdays between the hours of 10:00 p.m. and 7:00 a.m. on the following day or on Saturdays and Sundays and statutory holiday before 9:00 a.m. and after 10:00 p.m.;
- (d) Operating or permitting the operation of any power or manual equipment, machinery, device or motor vehicle in such a manner as to create a noise nuisance;
- (e) Operating or permitting the operation of a powered model vehicle so as to create a noise nuisance at a point of reception between the hours of 10:00 p.m. and 7:00 a.m. of the following day;
- (f) Operating or permitting the operation of any engine or motor vehicle or attached auxiliary equipment for a continuous period exceeding ten minutes, while such vehicle is stationary in a residential district or in any other location within 100 meters of a residential district between the hours of 10:00 p.m. and 7:00 a.m. of the following day;
- (g) Beating of drums;
- (h) Yelling, shouting, screaming, whistling or singing to the extent that a noise nuisance is created;
- (i) Firing of firearms, the firing or setting of fireballs, squibs, firecrackers or fireworks;
- (j) The operation of anything with the intent to cause unnecessary or unreasonable noise;
  
- (k) The operation of anything that caused noise because of bad maintenance, bad repair or improper operation (as in spinning motor vehicle wheels to make the tires squeal on pavement);
- (l) Operating, playing or permitting the operation or playing of any radio, television, stereo, drum, musical instrument, loudspeaker, public address system, sound amplifier or other 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, including the operation of any radio or sound amplification system of any kind in any motor vehicle;
- (m) Repairing, rebuilding modifying or testing of any motor vehicle, motorcycle, motorboat, outboard motor or recreational vehicle in such a manner as to create a noise nuisance at a point in reception between the hours of 10:00 p.m. and 7:00 a.m.;
- (n) The use of engine retarder brakes ("Jake Brakes") is prohibited on Provincial Trunk Highways within the limits the Municipality in locations where appropriate regulatory black on white "Engine Retarder Brakes Prohibited" signs (MR-112) are erected.

4.00 EXEMPTIONS:

4.01 THAT the provisions of this by-law shall not apply to:

- 4.02 The existence of any emergency or the emission of such sound in the performance of the emergency work unless such sound is clearly of a longer duration or nature more disturbing than is reasonably necessary for the accomplishment of the emergency purpose;
- 4.03 Work performed in respect of the maintenance, construction or demolition of a public right-of-way or public space;
- 4.04 Any military or other bands, or any parade, operating under written permit from the Municipality;
- 4.05 Any vehicle of the police, fire department or ambulance or any public service or emergency vehicle;
- 4.06 The ringing of church bells;
- 4.07 The using or operating of sound producing devices during the month of December in any year for the rendering of Christmas carols;
- 4.08 Concerts, circuses, fairs, parades, or any like activities where a permit has been issued by the Municipality;
- 4.09 The lighting of fireworks, by certified personnel, as a public display for the benefit of the community at large where a permit has been issued by the Municipality;
- 4.10 Any activity, work or undertaking which would otherwise be prohibited by this by-law where a permit has been issued by the Municipality;

5.00 PENALTY

5.01 Any individual, corporation, partnership, firm, joint venture, syndicate, association or trust, and any other form of entity or organization that contravenes, disobeys, or refuses or neglects to obey:

- (a) any provision of this by-law, or any provision of any other by-law that this by-law is made applicable to;
- (b) any proceedings taken or things done under this by-law;
- (c) any provision of any by-law, regulation, or order enacted or made by Council; or
- (d) any order made by this by-law or any condition attached to a permit or to which a permit is subject;

5.02 For which no other penalty is specifically provided is guilty of an offence and is liable, on summary conviction, to a fine of not less than \$100.00 and not more than \$1000.00 for each day's or each incident's neglect or failure to comply therewith.

5.03 Any person who hinders or obstructs the Authority Having Jurisdiction in the exercise of his duty is guilty of an offence and liable on summary conviction to a fine of not less than \$100.00 and not more than \$1,000.00.

6.00 REPEAL

6.01 THAT By-law No. 14/87 of The Rural Municipality of West St. Paul is hereby repealed.

6.02 The repeal of the by-law in the preceding subsection mentioned shall not revive any by-law or any provision of any by-law released by it.

6.03 Nothing done under the by-laws hereby repealed, shall be affected hereby, and the enactment hereof shall not adversely affect any penalty, forfeiture, order, act, liability or right incurred before the time of such repeal or any right to take action or proceedings, the right to do so having arisen under any by-law repealed hereby.

7.00. ENACTMENT

7.01 This by-law shall come into full force and take effect upon the passage thereof.

8.00 VALIDITY OF BY-LAW

8.00 Should any provision of this by-law or the Code hereby adopted be declared to be invalid by a court of competent jurisdiction, it is the intent of Council that it would have passed all other provisions of this by-law and the Code independent of the elimination of any such portion as may be declared invalid.

DONE AND PASSED by the Council of The Rural Municipality of West St. Paul in Council duly assembled, this 1<sup>th</sup> day of May A.D. 2006.

THE RURAL MUNICIPALITY OF WEST ST. PAUL

  
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Reeve

  
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Chief Administrative Officer

READ A FIRST TIME THIS 13<sup>th</sup> DAY OF April A.D. 2006

READ A SECOND TIME THIS 1<sup>st</sup> DAY OF May A.D. 2006

READ A THIRD TIME THIS 1<sup>st</sup> DAY OF May A.D. 2006