

THE TOWN OF MINNEDOSA

BY 6 LAW NO. 2493

BEING A BY 6 LAW OF THE TOWN OF MINNEDOSA TO REGULATE AND PROHIBIT UNNECESSARY AND HARMFUL NOISE WITHIN THE TOWN OF MINNEDOSA

WHEREAS Section 232(1) 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;
- (d) Businesses, business activities and persons engaged in business.

AND WHEREAS Section 233 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 provisions only in respect of

- (a) í
- (b) í
- (c) í
- (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 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 Town of Minnedosa, in Council duly assembled, enacts as follows:

1. THAT this By-law be referred to as the Town of Minnedosa's Noise Control By-law.
2. DEFINITIONS:
  - (a) "Town" means the Town of Minnedosa;
  - (b) "Commercial, Industrial or Residential District" means the various zoning districts as defined in the Town's Zoning By-law and Development Plan;
  - (c) "Commercial Truck" means, any truck not a public service vehicle, except as defined within "The Highway Traffic Act";
  - (d) "Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage threatened or caused by an emergency;
  - (e) "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;

- (f) "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 for 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;
- (g) "Farm Tractor" means a tractor designed and used primarily as a farm implement;
- (h) "Motorcycle" means a vehicle that has a steering handlebar completely constrained from rotating in relation to the axle of one wheel in contact with the ground; is designed to travel on not more than three wheels in contact with the ground; and has a maximum speed capability of more than 50 km/h;
- (i) "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;
- (j) "Off-road vehicle" means an off road vehicle as defined in "The Off-Road Vehicles Act";
- (k) "Owner" means owner as defined in "The Drivers and Vehicles Act";
- (l) "Passenger Vehicle" means a motor vehicle classified by a manufacturer as a passenger car or which is designed, constructed or adapted for the principle purpose of transporting passengers and includes a delivery car but does not include a motor cycle, moped or motor vehicle which is designed, constructed or adapted for the purpose of carrying goods or commodities.
- (m) "Peace Officer" means any member of the Royal Canadian Mounted Police Force and any other police officer, police constable, constable, or any other person employed for the preservation and maintenance of the public peace; and any person lawfully authorized to direct or regulate traffic, or to enforce this Act or traffic by-laws or regulations;
- (n) "Public Service Vehicle" means a motor vehicle or trailer operated by or on behalf of any person for gain or compensation of persons or property upon the highway, and includes a semi-trailer truck; but does not include the passenger-carrying motor vehicles, school buses, ambulances or hearses or motor vehicles operated for gain or compensation the "The Taxicab Act" or a municipal by-law in cities, towns, and villages;
- (o) "Semi-Trailer Truck" means a truck tractor and a semi-trailer combined;
- (p) "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarification of that medium. The description of sound may include any characteristics of such sound, including duration, intensity and frequency;
- (q) "Truck" means a motor vehicle or semi-trailer truck, that is not a delivery car and that is constructed or adapted to carry goods, wares and merchandise, freight or commodities, but not passengers or luggage
- (r) "Vehicle" means a device, in, upon, or by which a person or thing is or may be transported or drawn upon a highway but does not include a device to be moved solely by human muscular power or used exclusively upon stationary rails or tracks; or a motorized mobility aid.

### 3. OPERATIVES:

1. No person shall make or continue or cause or permit to made any noise or sound which:
  - a. is such that it does, or is likely to annoy, inconvenience or disturb persons;
  - b. cause the loss of enjoyment of the normal use of one's property;
  - c. interferes with the normal conduct of business
2. Noise and Sound from any source is prohibited if it does not conform with the following:
  - a. in a residential zone no person shall operate or permit the operation of any mechanical powered tool, similar device, item of machinery or equipment that is powered by an electric motor or an internal combustion engine

between 11:00 p.m. and 7:00 a.m. Monday to Saturday or between 10:00 p.m. on Saturdays to 10:00 a.m. on Sundays and statutory holidays.

3. No person shall shout, yell, sing or indulge in any other noise-producing activity whether by amplified sound or other, between the hours of 11:00 p.m. and 7:00 a.m.; so as to annoy or disturb the quiet, or comfort on any person.
4. No person including the owner shall repair, rebuild, modify or test any motor vehicle, farm tractor, motorcycle, off-road vehicle, passenger vehicle, public service vehicle, semi-trailer truck, truck or vehicle in such a manner as to create a noise or sound nuisance between the hours of 11:00 p.m. and 7:00 a.m. of the following day on weekdays and Saturdays and at no time on Sundays within the Residential Zone of the Town.
5. No person including the owner shall drive, turn or stop any motor vehicle, farm tractor, motorcycle, off-road vehicle, passenger vehicle, public service vehicle, semi-trailer truck, truck or vehicle in such a manner, which causes any unnecessary noise or sound from the engine, exhaust system or the braking or from the contact of the tires with the roadway.
6. No person including the owner shall idle any engine or motor of any semi-trailer truck or truck for a continuous period exceeding five (5) minutes while stationary in a residential zone unless:
  - a.) operation of such engine or motor is essential to a basic function of the equipment including but not limited to ready-mix concrete trucks, lift platforms and refuse compactors;
  - b.) prevailing low temperatures make idling periods necessary, immediately after starting the motor or engine;
  - c.) the vehicle is a bus operated for the transportation of passengers in an approved stopping area.
7. No person shall operate an auditory warning device of any kind on a motor vehicle, motorcycle, off-road vehicle, passenger vehicle, public service vehicle, semi-trailer truck, truck or vehicle except to avoid an accident, unless required specifically by law.
8. No person shall cause or permit the operation of any gas, gasoline, diesel or other engine or motor, unless it is equipped with a device or devices in good working order and in constant operation to prevent unnecessary noise from the exhaust system of such an engine or motor.
9. No person shall operate or permit the operation of a powered model vehicle so as to create a noise between the hours of 11:00 p.m. and 7:00 a.m. of the following day.
10. No person shall excavate or fill land, or construct, demolish or carry on construction of any type which involves hammering, sawing or the use of any machine, tools or equipment capable of creating sounds, which may be heard beyond the boundaries of the site on which the activity is being carried out between 11:00 p.m. and 7:00 a.m. Monday to Saturday, or from 10:00 p.m. on Saturday to 9:00 a.m. on Sundays and statutory holiday.
11. No person shall cause or permit the keeping of livestock or any other animals in semi-trucks, trailers or trucks, in any street, alley or public property, if the noise and sound is audible on any residential property.
12. No person shall harbor any animal or bird in their charge to cause frequent or long-continued noise, which would disturb and person(s) in the vicinity.
13. No person shall discharge firecrackers or fireworks within the Town.

14. Where any designated Peace Officer has reasonable grounds to believe that an offence has been committed by a person(s); the designated Peace Officer may require the name, address, and proof of identity of that person(s) and the person(s) shall supply the required information.

4. EXEMPTIONS:

1. The existence of an emergency or the emission of sound in the performance of emergency work such as a siren or klaxon.
2. Any passenger car, truck or other type of vehicle utilized by any emergency response service personnel or public service personnel while being operated either in route, or on site or responding to individual calls.
3. Snow removal operations being carried out during any 24 hour period by either municipal or private operators on private or public property.
4. Work performed to include but not limited to demolition of buildings during the term of an emergency.
5. Any bands or other noise/sound generating activities operating within an approved parade.
6. The ringing of school or church bells.
7. The operating of sound producing devices as approved during the Christmas Season and other festive occasions as approved by the Town.
8. Concerts, circuses, fairs or like activities which has been approved by the Town.
9. Firecrackers and Fireworks when discharged by qualified personnel for approved festive occasions.
10. Works being conducted by the Public Works or Utility Departments of the Town.
11. The restrictions do not apply to agriculture and industrial zoned land unless the sound impinges upon residential and commercial zones and exceeds acceptable noise and sound levels for those zones.
12. Wherever the provisions of any By-law or Town Planning Scheme administered by the Town or the Tannerø Crossing Planning District impose overlapping or contradictory regulations overt the control or prohibition of noise, or contain any restrictions covering any of the same subject matter contained herein, the most restrictive shall apply.

5. OFFENCES AND PENALTIES:

1. Each separate provision of this By-law shall be deemed independent of all other provisions herein.
2. If any provision of this By-law is declared to be invalid, all other provisions thereof shall remain valid.
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.

6. REPEAL:

1. That By-law No. 1966, By-law No. 1999 and By-law No. 2122 be hereby repealed.

DONE AND PASSED by the Council of the Town of Minnedosa, duly assembled in the Council Chambers of the Town of Minnedosa, in the Province of Manitoba this 9<sup>th</sup> day of September, 2008.

TOWN OF MINNEDOSA

---

Duane LaCoste ó Mayor

---

Ken G. Jenkins ó CAO

Read a first time this 12<sup>th</sup> day of August, 2008.

Read a second time this 9<sup>th</sup> day of September, 2008.

Read a third time this 9<sup>th</sup> day of September, 2008.