



THE RURAL MUNICIPALITY OF VICTORIA BEACH

BY-LAW NO. 1523

A By-Law of The Rural Municipality of Victoria Beach to control noise nuisances in the Municipality.

WHEREAS Subsection 232(1) and Section 233 of *The Municipal Act* provides, in part, as follows:

- 232(1) A council may pass by-laws for municipal purposes respecting the following matters:
- (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;
- 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 the Council of the Rural Municipality of Victoria Beach deems it necessary to prohibit all loud noises, unnecessary or unusual noises or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or welfare of the inhabitants of the Municipality;

NOW THEREFORE the Council of the Rural Municipality of Victoria Beach, in council assembled, enacts as follows:

Interpretation

In this By-law:

- (a) “Owner” means the person or persons shown as the registered owner on the latest revised assessment roll of the Municipality and includes the lessor, the person giving or permitting the occupancy of the premises in question and his or their heirs, assigns and the legal representative and also includes any person entitled to the possession of the premises;
- (b) “Occupant” means and includes owner, lessee, tenant, sub-tenant, under tenant and hir or their assigns, heirs and legal representative and shall include any person exercising physical control or possession of the lands and premises in question, where such control or possession is with or without the consent of the owner.

1. No person shall make, continue, cause, cause to be made or cause to be continued any loud, unnecessary or unusual noise, or any noise which annoys, disturbs, injures or endanger the comfort, repose, health, peace or welfare of others resulting as a consequence of any of the acts set forth below, and;
2. No person shall permit or allow to be made, or to continue, or to be caused to be made or to cause to be continued any loud noises resulting as a consequence of any of the following acts, in, on, or about any lands, buildings, structures, vehicles, or premises of which he is the owner or occupant as defined in this By-law:
 - (a) The sounding of any horn or other signaling device on any vehicle on any street or public place within the Municipality, except as a danger warning; the creation by means of a horn or other signaling device of any unreasonable or harsh sound; and the sounding of a horn or other signaling device for an unnecessary or unreasonable period of time; the use of any horn, whistle or other device operated by engine exhaust;
 - (b) The using, operating or permitting to be played used or operated of any radio receiving set, television, musical instrument, phonograph, loudspeaker or other machine or device for the production or reproduction or amplification of sound in such a manner as to annoy or disturb the peace, quiet, comfort or repose of the neighbouring inhabitants;
 - (c) The using, operating or permitting to be played, used or operated of a radio receiving set, television, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproduction g of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building, structure or vehicle;
 - (d) By yelling, shouting, hooting, whistling or singing on any street or public place in the area so as to annoy or disturb the peace, quiet, comfort or repose of any persons in any office, business, house or other type of residence or any person in the vicinity;
 - (e) The blowing of any siren however operated except as a warning of fire or other danger;
 - (f) The discharge into the open air of any stationary internal combustion engine, motor boat, or other motor vehicle, except through a muffler or other device which effectively prevents loud or explosive noises therefrom or any noise which may annoy, disturb injure or endanger the comfort, repose, healthy, peace or welfare of others;
 - (g) The use of any vehicle whatsoever so out of repair, so loaded or in such manner as to create a grating, grinding, or rattling noise or sound, except when such vehicle is being driven or towed for the purpose of being repaired or adjusted;
 - (h) The creation of any excessive noise on any street which noise may annoy, disturb, injure or endanger the comfort, repose, health, peace or welfare of others;

- (i) The operation of or allowing the operation of any lawn or garden tool, or other similar domestic power tool or device, except where such work is necessary to protect or prevent injury or danger to persons or property;
 - (j) The carrying on of any excavation or construction work whatsoever including the erection, demolition, alteration or repair of any building, authorized by the Municipality, except where such work is necessary to protect or prevent injury or danger to persons or property;
 - (k) The operation of or allowing the operation of any mechanically powered saw, drill, sander, grinder, chainsaw or other similar commercial power tool or device, except where such work is necessary to protect or prevent injury or danger to persons or property;
 - (l) The transportation of sand, gravel, dirt, rubble and like material, steel or like material over and along street and other public places within the area upon carts, drays, cars, trucks, trailers or in any other manner so loaded as to cause loud noises or so as to disturb the peace and quiet of such streets or other public places.
3. Doing any of the aforesaid acts in 2(a)(b)(c)(d)(e)(f)(g)(h)(i) between the hours of 11:00 o'clock p.m. on one day and 7:00 o'clock a.m. on the next following day and doing any of the aforesaid acts in 2(j)(k)(l) between the hours of 7:00 o'clock p.m. on one day and 8:00 o'clock a.m. on the next following day shall be prima facie evidence that the noise did disturb or any another person.
4. Nothing contained in this By-law shall be interpreted as prohibiting any of the following:
- (a) The use, in a reasonable manner, of any apparatus or mechanism for the amplification of the human voice or of music in a public par or any other commodious place in connection with any public election meeting, public celebration or other reasonable gathering or during the month of December, in any year, for the rendering of Christmas Carols or musical chimes anywhere in the area;
 - (b) Military or other band or any other parade, operating under written permission first obtained from the Council of the Municipality;
 - (c) Any vehicle of the Police or Fire Department or any Ambulance or any public service or emergency vehicle while answering a call;
 - (d) Any case of public convenience or necessity;
 - (e) The ringing of church bells;
 - (f) The operating of a Religious Body as heretofore carried on.
5. All reference to time shall be deemed to be reference to Daylight Savings Time when such is in current use in the Municipality and at all other timers to Central Standard Time.

6. Any person guilty of a breach of any of the provisions of this By-law shall, upon summary conviction, be liable to a fine not exceeding \$1,000.00 (one thousand dollars) and the costs of prosecution or in default of payment to imprisonment for a period not exceeding thirty (30) days and the provisions of *The Manitoba Summary Convictions Act* shall apply to any prosecution hereunder.
7. Where the contravention, refusal, neglect, omission or failure including failure to comply with an order or direction given under this By-law continues for more than one day, the person is guilty of a separate offence for each day that the contravention continues.
8. The owner or occupant of lands and premises situated within the Municipality shall incur any penalty provided for any violation of this By-law committed on or about or arising from the use of any lands and premises of which he is the owner or occupant as defined in this By-law, whether or not such owner or occupant is physically present at the time the violation is committed, unless the said owner or occupant can prove that the lands and premises were at the time of the violation occupied or used by a person or persons other than the owner or occupant without the knowledge or consent of the said owner or occupant.
9. In any proceeding under this By-law, any and all persons found in or about any premises where a violation of this By-law has taken place at the time of the committing of an offence under this By-law shall be presumed to be in possession of these lands and premises with the knowledge and consent of the owner or occupant, unless the contrary can be proven by the owner or occupant charged with the offence under this By-law.
10. If any part of this By-law is held to be invalid by any court of competent jurisdiction, the remaining provisions of this By-law shall not be invalidated. This By-law is intended to have force and effect only within the sphere of its legitimate operation pursuant to *The Municipal Act* of the Province of Manitoba.
11. By-law No. 1408 and By-law No. 1431 be and hereby are repealed.

DONE AND PASSED in Council assembled, in the City of Winnipeg, in the Province of Manitoba, this 20th day of May A. D. 2010.

Original Signed By:

William McDonald – Reeve

R. J. Moreau – CAO

Read a first time this 13th day of May A. D. 2010.

Read a second time this 20th day of May A. D. 2010.

Read a third time this 20th day of May A. D. 2010.