



STE. ANNE MUNICIPALITY

BY-LAW #2023-02

BEING a by-law of the Rural Municipality of Ste. Anne to regulate unnecessary and harmful noise within the Municipality.

WHEREAS sections 232 and 233 of The Municipal Act, L.M. 1996, c.58 Cap. M225 provide in part as follows:

Spheres of Jurisdiction

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;
- (c) subject to section 233, activities or things in or on private property;

Exercising by-law making powers

232(2) Without limiting the generality of subsection (1), a council may in a by-law passed under this Division

- (a) regulate or prohibit;

Content of by-laws under clause 232(1)(c)

232(1) 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 it is considered desirable to prohibit all loud, unnecessary or unusual noises or any noise which annoys, disturbs, injures, or endangers the comfort, repose, health, peace or welfare of inhabitants of the Rural Municipality of Ste. Anne;

NOW THEREFORE Council of the Rural Municipality of Ste. Anne duly assembled enacts as follows:

Short Title

1. This By-Law may be referred to as The Rural Municipality of Ste. Anne Noise By-Law.

Definitions

2. Unless otherwise expressly provided or unless the context otherwise requires, words and expressions in this By-Law have the same meaning as the same words and expressions in *The Municipal Act* and the following words are defined as follows:
 - (a) "CAO" means the Chief Administrative Officer of the Rural Municipality of Ste. Anne or his or her designate;
 - (b) "Drone" means a motorized model or unmanned craft generally remotely or computer controlled;
 - (c) "Emergency" means any occurrence or set of circumstances involving actual or imminent trauma or property damage necessitating immediate action;
 - (d) "Municipality" means the Rural Municipality of Ste. Anne;
 - (e) "Nuisance Noise" means:



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- (i) an unreasonably loud, unnecessary or excessive noise or sound;
- (ii) a noise or sound which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable individual of ordinary sensitivity; or
- (iii) a noise or sound which is so harsh, prolonged, unnatural or unusual in time and place so as to occasion unreasonable discomfort to any individual or so as to detrimentally affect residential properties or places of business;

as determined by an Officer, taking into account:

- (i) the time of day and day of the week on which the noise or sound was made;
 - (ii) the nature and use of the area from which the noise or sound emanates and the nature and use of the area at which it is received;
 - (iii) the nature of the event or activity producing the noise or sound; and
 - (iv) the volume, duration and nature of the sound, including whether it is recurrent, intermittent or constant;
- (f) "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;
 - (g) "Officer" means any designated officer or other person appointed and employed by the Municipality to administer and enforce this by-law and preserve and maintain the public peace;
 - (h) "Owner" means the person or persons or the corporation shown as the registered owner of real property on the latest revised assessment rolls of the Municipality;
 - (i) "Recreational 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, trail bikes, amphibious craft, jet skis and motor boats;
 - (j) "Residential Area" means the residential zones as defined in Zoning By- Law, and any amendments thereto; and
 - (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.

Prohibited Noises

- 3. No person shall make or continue, or cause to be made or continued, by whatever means, any Nuisance Noise except where otherwise permitted by this By-Law.

Prohibited Under any Circumstances

- 4. Without restricting the generality of section 3 hereof, the following shall be deemed to be Nuisance Noise in any part of the Municipality;
 - (a) the sound of any loud, blasphemous, abusive, obscene or insulting language;
 - (b) the excessive sound emanating from any motorized toy, Drone, Recreational Vehicle or Vehicle as determined by an Officer, unless authorized by Council;
 - (c) the sound of any horn, siren or similar signaling device except as a danger warning.



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Prohibited at Specific Times

5. Without restricting the generality of section 3 and the specifics of Nuisance Noise set out in section 4, the following shall be deemed to be Nuisance Noise in any part of the Municipality if undertaken between the hours of 11:00 p.m. of any day and 7:00 a.m. of the following day:
 - (a) the sound caused by the lighting and/or setting off of any explosive noise making device, including a firecracker or other fireworks, unless authorized by Council;
 - (b) the sound emanating from excavation or construction work of any nature; and
 - (c) the sound resulting from the use and/or operation of any power tool, motorized lawn mower, chain saw, leaf blower, motorized garden tiller, weed/grass trimmer or similar device used outdoors in any Residential Zone.
 - (d) the sound created by the use or operation of any drum, horn, bell or radio;
 - (e) the sound created by any means for the purposes of advertising or for attracting attention to any performance, show or sale or display of goods, wares or merchandise which projects noise or sound into any street or other public place, except where authorized by Council.

Responsibility for Nuisance Noise

6. The Owner or Occupant in control of a property or premises is responsible for Nuisance Noise created by invitees, guests or other persons on the property or premises in the same manner as the person actually creating the Nuisance Noise unless the Owner or Occupant establishes that he or she exercised due diligence in a bona fide effort to control and abate such Nuisance Noise.

Noise Permit

7. The Owner or Occupant in control of a property or premises may apply to the Chief Administrative Officer for a Noise Permit as set out in Schedule "A" to this By-Law.
8. Seasonal/Annual Noise Permit applications, or requests for permission to make noise on more than one or two consecutive days should include:
 - (a) The completed application form as set out in Schedule "A"
 - (b) A detailed letter of intent
 - (c) A schedule of the affected days
 - (d) A description of the type of noise
 - (e) Hours of noise generation activities
 - (f) Any mitigation efforts
 - (g) Any other information relevant to the application.
9. The Noise Permit application is subject to a one-time application fee, pursuant to the Municipality's Fees and Charges By-Law, as amended from time to time.
10. Should an application for a Noise Permit be denied by the Chief Administrative Officer, or their designated officer, then the applicant may appeal this decision to Council. A written appeal, accompanied by the appeal fees, being equivalent to the original application fees, must be submitted to the Municipal Office. Should the applicant wish to speak to their appeal, this must be clearly outlined in the appeal request. All appeal requests are to be scheduled as new business items on a regular Council meeting agenda, or as a delegation upon request.



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11. Council's decision on an appeal is final and not subject to further appeals.

Permitted Noises

12. None of the provisions of this By-Law shall apply to:
 - (a) sound resulting from 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 the Officer that:
 - (i) the sound intensity level is not unreasonable, taking into consideration the type of activity allowed by the applicable land use provision; 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;
 - (b) sound emanating from any concert, block party, special private parties, circuses, fairs, festivals, parades, tractor pulls or similar activity authorized by a Noise Nuisance Permit issued by the Chief Administrative Officer;
 - (c) any farmer or agent or employee of a farmer operating farm equipment during the normal course of farming operation;
 - (d) any agent, employee, servant or contractor of the Municipality performing services for or on behalf of the Municipality including, without limitation, the performance of any public work including snow clearing, road maintenance and road construction;
 - (e) sound emanating from the clearing of snow from private parking lots and driveways;
 - (f) sound emanating from the fire hall alarm;
 - (g) the sirens of any emergency service vehicle or emergency alert system while engaged in providing Emergency work or responding to an Emergency or during testing of an Emergency warning siren;
 - (h) sound emanating from the sound system of recognized recreational facilities with the Municipality during special events;
 - (i) the use of any bell, chime or similar sound for the purpose of calling persons to places of worship and/or similar school services;
 - (j) aircraft and railway rolling stock;
 - (k) any activity, work or undertaking which would otherwise be prohibited by this by-law where a Noise Nuisance Permit has been issued by the Chief Administrative Officer.

Enforcement, Contravention and Fines

13. Any person may allege a violation of this By-Law by filing a written complaint with an Officer in such form and with such particulars as the Officer may from time to time require, and/or the Officer may investigate based on their regular patrol of the Municipality.
14. Where an Officer determines that a contravention of any provision of this By-Law has occurred, the Officer may commence enforcement proceedings and issue and serve a Notice of Contravention and, if required, an Order to Remedy a contravention pursuant to the Municipality's General Enforcement By-law, as amended from time to time, and the Municipality's enforcement policy and procedures.
 - a. Note that under Section 6.1.f) of the Municipal General Enforcement By-law, a warning must be included in this Notice of Contravention stating that failure to comply will result in an Order to Remedy being issued, among other details;



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- b. Note that under section 7.1.b)ix) of the Municipal General Enforcement By-law, a warning stating that fines may be imposed must be included in the Order to Remedy, should the person fail to comply.
15. A person who receives an Order to Remedy a contravention may appeal such order in accordance with the Municipality's General Enforcement By-law, as amended from time to time, and the Municipality's enforcement policy and procedures. Council's decision on the issue is final and not subject to further appeal.
16. The Municipality and/or the Officer may take whatever action or measures are necessary to remedy a contravention of this By-Law in accordance with the Municipality's General Enforcement By-law, as amended from time to time, and the Municipality's enforcement policy and procedures.
17. Any person who contravenes or disobeys or refuses or neglects to obey or comply with any provision of this by-law or any order made under this by-law and/or the Municipality's General Enforcement By-law, as amended from time to time, is guilty of an offence and is liable to fines and penalties as set out in the Municipality's General Enforcement By-law, as amended from time to time.
18. Any person found to be in contravention of any of the provisions of this By-Law, and at the discretion of the Designated Officer, may be subject to one or both of following:
- a. A penalty of not less than:
- \$100.00 for a first offence;
 - \$500.00 for a second offence;
 - \$1,000.00 for a third offence and any further subsequent event within a 24-month period.
- b. The recovery of costs incurred for any response taken by the Rural Municipality of Ste. Anne, or any other Municipality responding on behalf of the same, which is a result of the contravention of this by-law.
19. Any fine levied or costs incurred in relation to Section 13 and/or 14 of this By-Law shall be paid directly to the Municipality by the person who has committed the offence, or collected in the manner by which a tax may be collected or enforced under *The Municipal Act* of Manitoba and the Municipality's General Enforcement By-Law, as amended from time to time.

Severability

20. If any provision of this by-law is held to be invalid by any court of competent jurisdiction, the remaining provisions of the by-law shall not be invalidated.

Repeal

21. By-Law #4-1990 and any amendments hereto is hereby repealed in its entirety.

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DONE AND PASSED by the Council of the Rural Municipality of Ste. Anne in Council duly assembled, in Council Chambers this 25th day of October, 2023.

Reeve
Richard Pelletier

Chief Administrative Officer
Mike McLennan

Read a first time this 26th day of July, 2023, by Resolution #2023-372.

Read a second time this 13th day of September, 2023, by Resolution #2023-468.

Read a third time this 25th day of October, 2023, by Resolution #2023-531.



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NUISANCE NOISE BY-LAW #2023-02 SCHEDULE "A"

NOISE PERMIT APPLICATION

APPLICANT NAME: _____

NAME OF ORGANIZATION: _____

ADDRESS: _____

PHONE NUMBER: _____

EMAIL ADDRESS: _____

DATE AND TIME OF EVENT: _____

LOCATION OF EVENT: _____

NUMBER OF PEOPLE EXPECTED TO ATTEND EVENT: _____

BRIEF DESCRIPTION OF EVENT:

I certify that the information I have provided on this application is true to the best of my knowledge. I have read the Rural Municipality of Ste. Anne By-Law #2023-02 and request a temporary exemption from the provisions of this By-Law.

_____ Date _____

Applicant Signature

The personal information in this form will be collected and shared for the purposes in Section 36-47 of the Freedom of Information and Protection of Privacy Act (FIPPA), and for other legal requirements, where they are deemed consistent with FIPPA.

<p>OFFICE USE ONLY: <input type="checkbox"/> Approved <input type="checkbox"/> Refused : _____ Expiry Date/Time _____ at _____ am/pm Signature of CAO or Designate: _____ Date: _____</p>
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CONTRAVENTION NOTICE RM OF STE. ANNE - NOISE BY-LAW #2023-02

TO:

Name:

Civic Address:

Mailing Address:

You are charged that on the _____ day of _____, 20__ on or about _____ am/pm you did unlawfully contravene section(s) of the Rural Municipality of Ste. Anne Noise By-law as follows:

FINE AMOUNT: _____

Disposition of this charge may be made by attending the Municipal Office of the Rural Municipality of Ste. Anne during office hours (8:30am-4:30pm, Monday- Friday) within 30 days following the date of this notice and pay the above-noted fine. If you fail to dispose of this charge within 30 days following the date of this notice, the fine may be collected in the same manner as a tax may be collected or enforced under *The Municipal Act*.

Dated at _____ in the Province of Manitoba
this ___ day of _____, 20__.

By-Law Enforcement Officer
Rural Municipality of Ste. Anne