



Rural Municipality of Hanover

By-law No. 2332-13

NOISE BY-LAW

Being a By-law of the Rural Municipality of Hanover
to regulate and prohibit nuisance noises in the municipality

WHEREAS Section 232 and 233 of the Municipal Act L.M. 1996, c. 58 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 taxations;
- c) Subject to section 233, activities or things in or on private property;
- j) The sale and use of firecrackers and other fireworks, the use of rifles, guns and other firearms and the use of bows and arrows and other devices;
- o) The enforcement of by-laws

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

- b) 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.

NOW THEREFORE be it and it is hereby enacted as a by-law of the Rural Municipality of Hanover as follows:

1.0 TITLE

1.1 This By-law may be referred to as the "RM of Hanover Noise By-law";

2.0 DEFINITIONS

2.1 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.

- 2.2 Wherever the singular or masculine are used throughout this By-law, the same shall be construed as meaning the plural or feminine or neutral, where the context so requires.
- 2.3 In this By-law
- (a) "CAO" means the Chief Administrative Officer of the Municipality or his designate.
 - (b) "By-Law Enforcement Officer" means the municipal designated officer to enforce the municipality's bylaws.
 - (c) "Emergency" means any occurrence or set of circumstances including actual or imminent physical trauma or property damage which demands immediate action.
 - (d) "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.
 - (e) "Fire Chief" means the Fire Chief of any RM of Hanover Fire Department as appointed from time to time.
 - (f) "Noise" means any loud or harsh sound.
 - (g) "Nuisance Noise" means any loud, unnecessary or unusual sound or any sound whatsoever which annoys, disturbs, injures, endangers or distracts from the comfort, repose, health, peace and/or safety of any reasonable person as determined by an Officer.
 - (h) "Officer" means any Member of the Royal Canadian Mounted Police Force and any other police officer, police constable, constable, By-Law Enforcement Officer, designated officer or other person appointed and employed by the Rural Municipality of Hanover for preservation and maintenance of the public peace.
 - (i) "Person" means any individual and includes firm, partnership, association, corporation, company or group of persons.
 - (j) "Point of Reception" means any point on any lands or premises where sound, originating from other lands or premises where sound originating from other lands or premises is received.
 - (k) "Premises" means a building or buildings including the associated land.
 - (l) "Residential Area" means any area where a person or persons maintain a residence, and without limiting the generality of the foregoing, shall include

all areas zoned as Residential pursuant to the RM of Hanover Zoning By-law and all other areas where residences are maintained.

(m) "Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium and the description of sound may include any characteristic of such sound, including duration, intensity and frequency.

(n) "Rural Municipality" means the Rural Municipality of Hanover.

3.0 PROHIBITED NOISES

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

3.2 Without restricting the generality of Section 3.1 hereof, the following shall be deemed likely to be Nuisance Noise:

(a) The Sound caused by the lighting and/or setting off of any explosive noise making device, including a firecracker or other fireworks, unless specifically authorized by the Fire Chief or a Designated Officer of the Municipality.

(b) The Sound emanating from any musical instrument or loudspeaker, when as determined by an Officer is audible from a distance of thirty(30) meters or more, unless authorized by the CAO, By-Law Enforcement Officer or a Designated Officer of the Municipality.

(c) The Sound emanating from excavation or construction work of any nature in any Residential Area between the hours of 9:00 p.m. of any day and 7:00 a.m. of the next following day.

(d) The Sound resulting from the use and/or operation of any power tool, motorized lawn mower, snow clearing device, chain saw, leaf blower, motorized garden tiller, weed/grass trimmer, motorized toy or similar device used outdoors in any Residential Area between 9:00 p.m. of any day and 7:00 a.m. of the next following day.

(e) The Sound created by the use of operation of any drum, horn, bell, radio or mechanical loudspeaker, or other instrument or device of Sound producing, Sound transmitting instrument or apparatus for the purposes of advertising or for attracting attention to any performance, show or sale or display of goods, wares or merchandise or which projects Noise or sound into any street or other public place except where such Noise or Sound has been prior authorized by a Designated Officer of the Municipality.

- (f) Any loud, blasphemous, abusive, obscene or insulting language or singing or shouting or speaking in a boisterous manner.
- (g) The Sound caused by an animal, bird or pet which creates a noise nuisance at a point of reception.
- (h) The Sound caused by the use of engine retarder brake on a vehicle while entering an urban area of the municipality.

3.3 The property/owner, lessee, occupier or Person in control of a Premises is responsible for Nuisance Noise created by invitees, guests or other persons on the Premises in the same manner as the person actually creating the Nuisance Noise unless the property owner, lessee, occupier or Person in control of the Premises establishes that he exercised due diligence in a bona fide effort to control and abate such Nuisance Noise.

4.0 PERMITTED NOISES

4.1 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 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;
- (b) Sound emanating from any parade authorized by the CAO;
- (c) Sound emanating from any street festival, fairs, concert, event, block party, special private party, circus or similar function authorized by the CAO through a noise permit;
- (d) Snow clearing, road maintenance and road construction vehicles and equipment operated by the RM of Hanover or the Province of Manitoba or their agents and/or contractors;
- (e) Grass and field of play maintenance vehicles and equipment operated by the RM of Hanover and the Province of Manitoba or their agents and/or contractors;
- (f) Sound emanating from the clearing of snow from private parking lots and driveways;

- (g) Sound emanating from the Fire Hall alarm, or the sirens of any emergency vehicle while engaged in providing Emergency Work or responding to an Emergency or during testing of the Emergency measures civil defense or warning siren;
- (h) The use of any bell, chime or similar Sound for the purpose of calling persons to church and/or similar school services;
- (i) The use or operation of sound producing devices during the month of December in any year for the emanating of Christmas carols;
- (j) The use, in a reasonable manner, of any apparatus, mechanism or device for the amplification of the human voice or of music on public property in connection with any duly approved public meeting, celebration or other public gathering, inclusive of all municipal recreation facilities within the Rural Municipality of Hanover;
- (k) The lighting and setting off of fireworks, by certified persons, as a public display or celebration with the approval of the Fire Chief;
- (l) Any activity, work or undertaking which would otherwise be prohibited by this by-law where a noise nuisance permit has been issued by the CAO;
- (m) Aircraft and railway rolling stock where land use permits have been issued for said activity;
- (n) Noises associated with normal farming activities or operation of agricultural machinery being used for agricultural purposes;
- (o) The CAO may, at his discretion, issue nuisance noise permits as specified herein, subject to any appeal of this decision to the Council of the RM of Hanover whose decision on the matter will be final.

5.0 CONTRAVENTION & FINES

5.1 An enforcement Notice to be issued by an Officer for contravention of this By-law. An Officer may also issue a Common Offence Notice of the Province of Manitoba for contravention of the By-law.

5.2 Any Person who contravenes this By-law shall be issued an Enforcement Notice or a Common Offence Notice of the Province of Manitoba by the Officer and such Person may voluntarily dispose of the matter by attending at the RM of Hanover Municipal Office during regular office hours within thirty(30) days of the date of the Notice of Enforcement issued and pay to the Municipality the fine as set out in the Notice of Enforcement or Common Offence Notices issued shall be paid as directed on the Provincial Common Offence Notice.

- (a) To a fine of not less than Two Hundred Dollars (\$200.00) and to a maximum of Five Hundred dollars (\$500.00) for the first offence.
- (b) To a fine of not less than Five Hundred Dollars(\$500.00) and to a maximum of One Thousand dollars(\$1,000.00) for the second offence and for each subsequent offence within twelve(12) months of the first offence, and in default of payment, to imprisonment for not more than thirty(30) days.

5.3 If a Person served with a Notice of Enforcement or a Common Offence Notice of the Province of Manitoba under this By-law fails to pay the fine as set out in the Notice of Enforcement or the Common Offence Notice with the thirty (30) day period, the Officer shall lay an Information with respect to the contravention and a Summons will be issued for the Person to attend before a Provincial Court Judge, Magistrate or Justice of the Peace. Any Person found guilty for contravention of this By-law before a Provincial Court Judge, Magistrate or Justice of the Peace is subject to a minimum fine of Five Hundred Dollars (\$500.00) for a first offence and to a minimum fine of One Thousand Dollars (\$1,000.00) for the second offence and for each subsequent offence plus all applicable court costs.

5.4 A fine levied and costs charged under this By-law may be collected in any manner in which a tax may be collected or enforced under The Municipal Act.


6.0 SEVERABILITY

6.1 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.


7.0 REPEAL

7.1 By-law No. 1519 of the Rural Municipality is hereby repealed in its entirety.

DONE AND PASSED in Council duly assembled in the Rural Municipality of Hanover, in the Province of Manitoba this 11th day of December, 2013



Reeve



CAO

Read a first time this 20th day of November, 2013
Read a second time this 11th day of ^{December} November, 2013
Read a third time this 11th day of December, 2013.