

The Town of Beausejour

By-law No. 1574/05

(C:\MyDocuments\Jim\By-laws\ProtectiveServices\Noise By-law)

BEING A BY-LAW OF THE TOWN OF BEAUSEJOUR TO REGULATE UNNECESSARY AND HARMFUL NOISE WITHIN THE TOWN OF BEAUSEJOUR

Whereas Section 231 (a) of the of the Manitoba Municipal Act S.M. 1996,c. 58 – Chap. M225, hereinafter referred to as the MMA, provides the authority the power to pass by-law to respect its right to govern the municipality in whatever way the council considers appropriate, within the jurisdiction given to it under this or other acts.;

And whereas 232(1) (a) of the MMA permits a council to pass by-laws for municipal purposed respecting the safety, health, protection and well-being of people, and the safety and protection of property.

And whereas 232(1) (c) of the MMA permits a council, subject section 233, to pass by-laws respecting activities or things in or on private property.

And whereas Section 233 (d) of the MMA permits a council to pass by-law regarding 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 Town of Beausejour wishes to establish restrictions on the level of certain noises within the municipality

Now therefore the Council of the Town of Beausejour, in open session assembled, enacts as follows:

SECTION 1 – SHORT TITLE

This By-law may be referred to as “the Town of Beausejour Noise Control By-law.

SECTION 2 - DEFINITIONS

Commercial, Industrial or Residential Districts - shall mean the various zoning districts as defined in the by-laws relating to the zoning and planning schemes of the Town of Beausejour.

Construction - shall mean any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private rights-of-way, structures, utilities or similar property.

Demolition - shall mean any dismantling, intentional destruction or removal of structures, utilities, public or private right-of way surfaces, or similar property.

Emergency - shall mean any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

Emergency Work - shall mean any work performed for the purposes of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

Industrial Machine - shall mean any machine properly used in any zone of the Town in accordance with applicable provisions of the Town Planning Scheme – including contractors equipment – that cause noise immediately outside of the limits of the parcel of land on which it is located in excess of 85 decibels.

Motor Vehicle - shall mean an automobile, motorcycle, truck and any other vehicle propelled or driven otherwise than by muscular power.

Motorized Recreational Vehicle - shall mean all recreational motorized vehicles whether not licensed or registered, including, but not limited to, commercial or non-commercial racing vehicles, motorcycles, go-carts, snowmobiles, trail bikes, amphibious craft and motor boats.

Noise Nuisance - shall mean 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.

Person - shall mean any individual, firm, partnership, association, corporation, company or organization of any kind.

Point of Perception - shall mean any point on any lands or premises where sound, originating from other lands or premises, is received.

Powered Model Vehicle - shall mean any self-propelled airborne, waterborne or land borne airplane, vessel or vehicle, which is not designed to carry a person including, but not limited to, to any model airplane, boat, car or rocket.

Sound - shall mean 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. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Town - shall mean the Town of Beausejour.

SECTION 3 – PROHIBITED ACTS

Except to the extent permitted by this by-law no person shall make, continue, or cause, or allow to be made or continued any noise nuisance.

The following acts, among others, and the causing thereof, are declared to be violations of

this by-law. The said enumeration shall not be deemed to be exclusive, namely:

Owning, possessing or harboring any animal or bird which creates a noise nuisance.

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.

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 any day of the week between the hours of 10:00 o'clock p.m. and 7:00 o'clock a.m. the following day.

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.

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.

Operating or permitting the operation of an engine or motor in or on any motor vehicle or attached auxiliary equipment for a continuous period exceeding 10 minutes, while such vehicle is stationary in a residential district or in any other location within 150 metres of a residential district between the hours of 10:00 p.m. and 7:00 a.m. of the following day.

Beating of Drums.

Yelling, shouting, screaming, whistling, or singing to the extent that a noise nuisance is created.

Firing of firearms, the firing or setting off of fireballs, squibs, firecrackers or fireworks.

The operation of anything with the intent to cause unnecessary or unreasonable noise.

The operation of anything that causes noise because of bad maintenance, bad repair, or improper operation (as for instance spinning motor vehicle wheels to make the tires squeal on the pavement).

Operating, playing or permitting the operating or playing of any radio, televisions, phonograph, 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 amplifications system of any kind in any motor vehicle.

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.

No person shall operate an industrial machine between the hours of 10:00 p.m. and 7:00 a.m. without a written permit issued under the authority of the Town.

No person who is in lawful control of a place shall permit any noise nuisance to be made in that place or any noise to be made by an industrial machine during the prohibited period of the day.

SECTION 4 – EXEMPTIONS

The provisions of this by-law shall not apply to:

The existence of any emergency or the emission of such sound in the performance of emergency work unless such sound is clearly of a longer duration, or nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

Work performed in respect of the maintenance, construction or demolition of a public right-of-way or public space.

Any military or other bands or parade, operating under written permit from the Town.

Any vehicle of the police or fire department or any ambulance or any public service or emergency vehicle.

The ringing of church or school bells.

The using or operating of sound producing devices during the month of December in any year for the rendering of Christmas carols.

Any concert, circus, fair, parade, or other community event as the Council in its discretion may determine, where a permit for such event has been issued by Council. Any such exemption being subject to any restrictions imposed by Council in such permit.

Any activity, work or undertaking which would otherwise be prohibited by this by-law where a permit has been issued by the Council.

The clearing of snow on private parking lots, Monday to Saturday inclusive between the hours of 6:00 a.m. and 12:00 midnight.

The lighting of Fire Works as a public display in a controlled location for the benefit of the community at large on both July 1st and the May long weekend or on such other day as approved through a permit issued by the Town.

SECTION 5 - PENALTY

Any person found guilty of a breach of any provision of this by-law shall be liable upon conviction to a fine of \$ 100.00 dollars or to imprisonment for a period not exceeding thirty days or to both such fine and imprisonment.

Wherever the provision of any by-law or Planning Scheme of the Town, or any by-law or Town Planning Scheme administered by the Town impose overlapping or contradictory regulations over the control or prohibition of noise, or contain any restriction covering any of the same subject matter contained herein, the most restrictive standard shall apply.

SECTION 6 – BY-LAW REPEALED

Town of Beausejour By-law number 858 is hereby repealed.

SECTION 7 - SEVER ABILITY

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.

Done and Passed by the Council of the Town of Beausejour, duly assembled in Beausejour, Manitoba, this _____ day of _____, 2005.

Mayor

Chief Administrative Officer

Read a First Time on the _____ day of _____, 2005

Read a Second Time on the _____ day of _____, 2005

Read a Third Time on the on the _____ day of _____, 2005