

CITY OF PORTAGE LA PRAIRIE  
BY-LAW NO. 7105

A by-law of the City of Portage la Prairie to regulate unnecessary and harmful noises.

WHEREAS the Municipal Act provides:

98 The Council of each municipality may, by by-law, make regulations not contrary to law, respecting matters for which provision is not specifically made herein, and, without restricting the generality of the foregoing shall make regulations,

(a) for governing the organization and proceeding of the Council;

(b) respecting the time and place of holding its meetings; and

(c) for the calling of special or general meetings thereof;

and generally, but subject to The Public Health Act and any other Act of the Legislature and regulations made thereunder, may make such other regulations for the health, safety, morality, and welfare of the inhabitants and for the peace, order and good government of the municipality as the Council deems to be necessary or advisable.

370 The Council of any municipality may pass by-laws

(a) for regulating or prohibiting the ringing of bells, except church and school bells, blowing of horns, beating of drums, and other noises liable to disturb or annoy residents of the municipality; and

(b) for regulating, controlling, or prohibiting the use, on the highways or in any public place, in the municipality, of loudspeakers or other devices for the amplification of sound.

AND WHEREAS excessive sound is a serious hazard to public health and welfare, safety and the quality of life;

AND WHEREAS people have a right to enjoy an environment free from excessive noise;

AND WHEREAS technology now exists by which excessive noise may be substantially abated;

NOW THEREFORE the City of Portage la Prairie, in Council assembled, enacts as follows:

## Section 1 – SHORT TITLE

This by-law may be referred to as “The City of Portage la Prairie Noise Control By-Law”

## Section 2 – DEFINITIONS

### 2.1 TERMINOLOGY

All terminology used in this by-law, not defined below, shall be in conformance with current publications of the Canadian Standards Association (CSA) and the American National Standards Institute (ANSI) or respective successor body.

### 2.2.1 “A” WEIGHTED SOUND LEVEL

means the sound pressure level in decibels as measured on a precision sound level meter using the “A” weighting network and “slow” meter response. The level so read is designated dBA.

### 2.2.2 CITY

means the City of Portage la Prairie.

### 2.2.3 CLERK

Means the Clerk of the City of Portage la Prairie.

### 2.2.4 COMMERCIAL, INDUSTRIAL OR RESIDENTIAL DISTRICT

Means the various zoning districts as defined in the by-laws relating to zoning of the City of Portage la Prairie.

### 2.2.5 CONSTRUCTION

means 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.

### 2.2.6 DECIBEL (dB)

means a unit for measuring the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of pressure of the sound measured to the reference, pressure, which is 20 micropascals.

### 2.2.7 DEMOLITION

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

### 2.2.8 EMERGENCY

means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage, which demands immediate action.

### 2.2.9 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.

2.2.10 MOTOR VEHICLE

means an automobile, motorcycle, truck and any other vehicle propelled or driven otherwise than by muscular power.

2.2.11 MOTORIZED RECREATIONAL VEHICLES

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

2.2.12 NOISE NUISANCE

means 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.

2.2.13 PERSON

means any individual, firm, partnership, association, corporation, company or organization of any kind.

2.2.14 POINT OF RECEPTION

means any point on any lands or premises where sound, originating from other lands or premises, is received.

2.2.15 POWERED MODEL VEHICLE

means any self-propelled airborne, waterborne or landborne airplane, vessel or vehicle, which is not designed to carry a person including, but not limited to, any model airplane, boat, car or rocket.

2.2.16 PRECISION SOUND LEVEL METER

means an instrument used to measure sound levels and specified as a Type I Precision Sound Level Meter in CSA specification, Z107, 1-1973, or the American National Standards Institute specification, ANSI SI. 4-1971 (R1976), as amended from time to time.

2.2.17 PUBLIC RIGHT-OF-WAY

means any street, avenue, lane, highway, boulevard, sidewalk, park, square, subway, bridge, wharf, thorough-fare or way or similar place, which is owned or controlled by a governmental entity.

2.2.18 PUBLIC SPACE

means any real property or structures thereon which are owned or controlled by a governmental entity.

2.2.19 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 and characteristic of such sound, including duration, intensity and frequency.

2.2.20 SOUND LEVEL

means the “A” weighted sound level as measured and obtained by the use of a Precision Sound Level Meter as specified in the Canadian Standards Association (CSA) specification for sound level meters, Z107, 1-1973, or the American National Standards Institute (ANSI) specification for sound level meters, ANSI SI. 4-1971, (R1976), as amended from time to time.

2.2.21 WEEKDAY

Mean any day Monday through Friday, which is not a statutory holiday.

SECTION 3 – PROHIBITED ACTS

3.1 NOISE NUISANCE PROHIBITED

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

3.2 SPECIFIC PROHIBITIONS

The following acts, among others, and the causing thereof, are declared to be in violation of this by-law, but the enumeration shall not be deemed to be exclusive.

3.2.1 AIR CONDITIONERS, AIR MOVING DEVICES, PUMPS, FANS

No person shall operate or permit the operation of air conditioning equipment, air moving devices, pumps or fans which exceed a sound level of 55 dBA as measured at a point of reception between the hours of 7:00 o’clock a.m. and 9:00 o’clock p.m. and 50 dBA as measured at a point of reception between the hours of 9:00 o’clock p.m. and 7:00 o’clock a.m. of the next following day.

3.2.2 ANIMALS AND BIRDS

No person shall own or possess or harbor any animal or bird which creates a noise nuisance at a point of reception.

3.2.3 CONSTRUCTION ACTIVITIES

No person shall operate or permit the operation of any tools or equipment used in construction, drilling, or demolition work on Sundays at any time or on weekdays between the hours of 10:00 o’clock p.m. and 7:00 o’clock a.m. the following day or on Saturdays and statutory holidays before 7:00 o’clock a.m. and after 9:00 o’clock p.m.

3.2.4 DOMESTIC POWER TOOLS

No person shall operate or permit 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 weekdays between the hours of 9:00 o'clock p.m. and 7:00 o'clock a.m. the following day or on Saturdays or Sundays and statutory holidays before 7:00 a.m. and after 9:00 o'clock p.m.

3.2.5 EQUIPMENT NOISE (INCLUDING MOTOR VEHICLES)

No person shall operate or permit the operation of any power or manual equipment, machinery, device or motor vehicle in such a manner as to create a noise nuisance.

3.2.6 LOADING AND UNLOADING

No person shall load, unload, deliver, pack or unpack, or otherwise handle any containers, products, materials or refuse in such a manner as to create a noise nuisance.

3.2.7 PEOPLE NOISE

No person shall yell, shout, whistle or sing to the extent that a noise nuisance is created.

3.2.8 POWERED MODEL VEHICLES

No person shall operate or permit the operation of a powered model vehicle so as to create a noise nuisance at a point of reception between the hours of 9:00 p.m. and 9:00 a.m. of the following.

3.2.9 RADIOS, TELEVISION SETS, MUSICAL INSTRUMENTS AND SOUND PRODUCING DEVICES IN RESIDENTIAL DISTRICTS

No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, loudspeaker, public address system, sound amplifier or 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.

3.2.10 RADIOS, TELEVISION SETS, MUSICAL INSTRUMENTS AND SOUND PRODUCING DEVICES IN COMMERCIAL DISTRICTS

No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, loudspeaker, public address system, sound amplifier or similar device in a commercial district which produces, reproduces or amplifies sound in such a manner as to create a noise nuisance at a point of reception, unless used for the purpose of advertising some patriotic or other public object and unless a permit has been issued by the City.

3.2.11 STANDING VEHICLES

No person shall operate or permit the operation of any 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 meters of a residential district between the hours of 10:00 o'clock p.m. and 7:00 o'clock a.m. of the following day.

### 3.2.12 STREET SALES

No person shall offer for sale or sell anything by shouting, outcry or amplified sound within any residential or commercial district in the City.

### 3.2.13 VEHICLE OR MOTOR BOAT REPAIRS AND TESTING

No person shall repair, rebuild, modify or test any motor vehicle, motorcycle, motor boat, outboard motor or recreational vehicle in such a manner as to create a noise nuisance at a point of reception between the hours of 10:00 o'clock p.m. and 7:00 o'clock a.m. of the following day on weekdays and Saturdays and at no time on Sundays.

## SECTION 4 – EXEMPTIONS

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

- 4.1.1 The existence of an emergency or the emission of 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.
- 4.1.2 Work performed in respect of the maintenance, construction or demolition of a public right-of-way or public space.
- 4.1.3 Any military or other bands or any parade, operating under written permit from the City.
- 4.1.4 Any vehicle of the police or fire department or any ambulance or any public service or emergency vehicle while answering a call.
- 4.1.5 The ringing of church or school bells.
- 4.1.6 The using or operating of sound producing devices during the month of December in any year for the rendering of Christmas Carols.
- 4.1.7 Concerts, Circuses, Fairs, Parades, or any like activity where a permit has been issued by the City.
- 4.1.8 Any activity, work or undertaking which would otherwise be prohibited by this by-law where a permit has been issued by the City.
- 4.1.9 Aircraft and railway rolling stock.

## SECTION 5 – ADMINISTRATION

This by-law shall be administered by the Building Inspector of the City.

## SECTION 6 – PENALTY

- 6.1 Every person who contravenes, or refuses, omits, or fails to obey or observe any provision of this by-law is guilty of an offence and is liable, on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding one month or to both the fine and imprisonment.
- 6.2 In the absence of other evidence or by way of corroboration of other evidence, a court may infer from the evidence of the peace officer relating to the conduct of a person or persons, whether ascertained or not, that a noise nuisance as described in this by-law was caused or occurred.

## SECTION 7 – CONFLICT WITH BY-LAWS AND CITY PLANNING SCHEMES

Wherever the provisions of any by-law and a zoning by-law of the City impose overlapping or contradictory regulations over the control or prohibition of noise, or contain any restrictions covering any of the same subject matter contained herein, the most restricting standard shall apply

## SECTION 8 – REPEAL

Sections 3, 5 and 6 of By-Law No. 6249 are hereby repealed.

## SECTION 9 – SEVERABILITY

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 in Council assembled this 21<sup>st</sup> day of August, 1989.

The City of Portage La Prairie

(W.M. McMillan)

Mayor

(Marg Loewen) for H. Roberts

Clerk

Given first reading this 21<sup>st</sup> day of August, 1989.

Given second reading this 21<sup>st</sup> day of August, 1989.

Given third reading and passed this 21<sup>st</sup> day of August, 1989.