

## THE RURAL MUNICIPALITY OF WHITEMOUTH

### BY-LAW NO. 583/12

#### BEING A BY-LAW OF THE RURAL MUNICIPALITY OF WHITEMOUTH TO CONTROL NOISE NUISANCES IN THE SAID MUNICIPALITY

**WHEREAS**, it is considered desirable to prohibit all loud, unnecessary or unusual noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace and welfare of the inhabitants of the Municipality of Whitemouth.

**INTERPERTATION:** In this By-law;

- (a) "owner" means the person or persons shown as the registered owner on the last revised assessment roll for the Municipality of Whitemouth and includes the lessor, the person giving or permitting the occupancy of the premises/vehicle in question and his or their heirs, assigns and 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 his or their assigns, heirs, and legal representative, and shall include any person exercising physical control or possession of the lands, premises and vehicle in question, where such control or possession is with or without the consent of the owner.

**NOW THEREFORE**, the Council of the Rural Municipality of Whitemouth in open session enacts as follows:

1. (1) No person shall make, continue, cause to be made or cause to be continued any loud, unnecessary noise, or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace, or welfare of others resulting as a consequence of any of the acts set forth below, and;
2. (2) No person shall permit or allow to be made, or to continue, or to be caused to be made or to be caused to be continued any loud noise 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 said area, except as a danger warning; the creation, by means of a horn or other signaling device or any unreasonable or harsh sound; and the sounding of a horn or other signaling device for any 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, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to annoy or disturb the peace, quiet, comfort, or repose of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing by a person or persons of normal hearing who are in the room, vehicle, or chamber, in which such machine or device is operated and who are voluntary listeners there. The operation of any such set, instrument, phonograph, machine or device at anytime during day or night, in such a manner as to be plainly audible at the distance of fifty feet from the building, structure, or vehicle in which it is located shall be prima facie evidence that the noise did annoy or disturb neighboring inhabitants;
  - (c) The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loud speaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of

commercial advertising or attracting the attention of the public to an 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 persons in any office, school, hotel, house, or other type of residence, or any person in the vicinity and the making of such noise at anytime during day or night will be prima facie evidence that the noise did annoy or disturb another person;
  - (e) The blowing of any steam or air whistle attached to or used in connection with any stationary boiler or other machine or mechanism or any siren however operated except as a warning of fire or other danger;
  - (f) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or 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, health, peace or welfare of others;
  - (g) The carrying out at anytime day or night of any excavation or construction work whatsoever including the erection, demolition, alteration or repair of any building, authorized by the Municipality and intermittent explosions occurring in the course of, or in connection with, any manufacturing process, except where such work is necessary to protect or prevent injury or danger to persons or property;
  - (h) The creation of any excessive noise on any street adjacent to any school, institution of learning or church while the same in use, which is likely to interfere unreasonably with the workings of such institution.
  - (i) Unreasonably loud shouting or crying of peddlers, hawkers, and vendors, which disturbs the quiet of the neighborhood;
  - (j) The transportation of rails, pillars, columns of iron, sand, gravel, dirt, rubble and like material, steel or like material over and along streets and other public places within the area upon carts, drays, cars, trucks, 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;
  - (k) The operation at anytime day or night of any pile driver, steam shovel, pneumatic or gasoline operated hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noises;
  - (l) The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids unless the noise from such blower or fan is muffled and such engine is equipped with a device sufficient to deaden such noise.
  - (m) The use of engine retarder brakes within community limits.
3. Nothing 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 part or any other commodious space in connection of other reasonable gathering or, during the month of December in any year, for the rendering of Christmas carols and musical chimes anywhere in the area;
  - (b) Any military or other band or any parade, operation under written permission first obtained from the Chief Constable of the Municipality;
  - (c) Any newsboy, peddler, hawker or petty tradesman playing his calling lawfully and moderately;
  - (d) Any vehicle of the police or fire department or any ambulance or any public service or emergency vehicle while answering a call;
  - (e) Any sound arising from the operation of any railway which operates under The Railway Act of Canada or from any plant or work in connection with any such railway;
  - (f) Any case of public convenience or necessity;

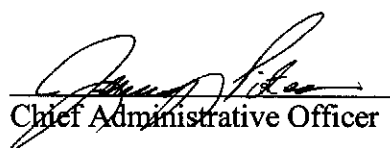
- (g) The ringing of church or school bells;
- (h) The operations of religious body heretofore carried on.

4. All references to time shall be deemed to be a reference to Daylight Saving Time when such is in current use in the Municipality and at all other times to Central Standard Time.
5. 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 \$100.00 and the costs of prosecution or in default of payment to imprisonment for a period not exceeding three months and the provisions of The Manitoba Summary Convictions Act shall apply to any prosecution hereunder.
6. That the owner or occupant of lands and premises situated within the Rural Municipality of Whitemouth 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.
7. In any proceeding under this By-Law, any and all persons found in or upon or about any premises where a violation of this By-Law has taken place at the time of the committing of any offence under this By-Law, shall be presumed to in possession of these lands and premises with the knowledge and consent of the owner or occupant, unless the contrary can be proved by the owner or occupant charged with the offence under this By-Law.

**AND FURTHER BE IT RESOLVED THAT** By-Law No. 107/87 and No. 121/88 be repealed.

**DONE AND PASSED** by the Council of the Rural Municipality of Whitemouth in Council duly assembled this 4<sup>th</sup> day of April, A.D. 2012.

  
Reeve

  
Chief Administrative Officer

Read a first time this 28<sup>th</sup> day of March, A.D. 2012.

Read a second time this 28<sup>th</sup> day of March, A.D. 2012.

Read a third time this 4<sup>th</sup> day of April, A.D. 2012.