

Town of Stonewall
By-Law No. 06-24

Being a By-Law of the Town of Stonewall to regulate and prohibit Nuisance Noise

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

- (a)
- (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.

NOW THEREFORE be it and it is hereby enacted as a By-Law of the Town of Stonewall as follows:

1.0 TITLE

1.1 This By-Law may be referred to as the "Town of Stonewall Nuisance Noise By-Law";

2.0 DEFINITIONS

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.

2.1 In this By-Law:

- (a) "**CAO**" means the Chief Administrative Officer of the Town or their designate.
- (b) "**Chief of Police**" means the Officer in Charge of the Stonewall RCMP Detachment.

- (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 Stonewall-Rockwood Fire Department as appointed from time to time.
- (f) **"Motor Vehicle"** shall mean an automobile, motorcycle, truck or any other vehicle propelled or driven otherwise than by muscular power
- (g) **"Motorized Recreational Vehicle"** shall mean 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 crafts, and motorboats.
- (h) **"Noise"** means any loud or harsh sound.
- (i) **"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.
- (j) **"Officer"** means any Member of the Royal Canadian Mounted Police Force and any other police officer, police constable, constable, designated officer or other person appointed and employed by the Town of Stonewall for preservation and maintenance of the public peace.
- (k) **"Person"** means any individual and includes firm, partnership, association, corporation, company, or group of persons.
- (l) **"Powered Model Vehicle"** shall mean any self-propelled air-borne, water-borne, or land-borne airplane, vessel or vehicle that is not designed to carry a person, including, but not limited to, any model airplane, boat, car, or rocket.
- (m) **"Premises"** means a building or buildings including the associated land.
- (n) **"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 Town of Stonewall Zoning By-Law and all other areas where residences are maintained.
- (o) **"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.
- (p) **"Town"** means the Town of Stonewall.

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 CAO;
 - (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 Chief of Police or CAO;
 - (c) the Sound emanating from excavation or construction work of any nature between the hours of 10:00 P.M. of any day and 7:00 A.M. of the next following day, except on Sundays when no excavation or construction work is permitted;
 - (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 10:00 P.M. of any day and 7:00 A.M. of the next following day.
 - (e) the Sound created by the use or operation of any drum, horn, bell, radio or mechanical loudspeaker, or other instrument or device or Sound producing, Sound re-producing, or 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 the CAO;
 - (f) any loud, blasphemous, abusive, obscene or insulting language or singing or shouting or speaking in a boisterous manner;
 - (g) the Sound resulting from any person 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;
 - (h) the Sound resulting from any person operating or permitting the operation of a powered model vehicle so as to create a noise nuisance between 10:00 PM of any day and 7:00 AM of the next following day
 - (i) the Sound resulting from any person rebuilding, modifying or testing any motor vehicle, motorcycle, motorboat, outboard motor or motorized recreational vehicle in such a manner to create a noise nuisance between 10:00 PM of any day and 7:00 AM of the next following day.
- 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 or CAO, 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 Town or Chief of Police;
- (c) Sound emanating from any street festival, event, block party or similar function which would otherwise be prohibited authorized by the CAO;
- (d) Work performed in respect of maintenance, construction or demolition of a public right-of-way or public space
- (e) Snow clearing, road maintenance and road construction vehicles and equipment operated by the Town or the Province of Manitoba or their agents and/or contractors;
- (f) Grass and field of play maintenance vehicles and equipment operated by the Town and the Province of Manitoba or their agents and/or contractors;
- (g) Sound emanating from the clearing of snow from private parking lots and driveways;
- (h) 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;
- (i) Sound emanating from the sound system of the Quarry Park baseball and/or lake facility, the Stonewall Arena and the Veterans Memorial Sports Complex soccer, arena, and/or curling rink facilities;
- (j) The use of any bell, chime or similar Sound for the purpose of calling persons to church and/or similar school services;
- (k) The use or operation of Sound producing devices during the month of December in any year for the emanating of Christmas carols;
- (l) 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;
- (m) the lighting and setting off of fireworks, by certified persons, as a public display or celebration with the approval of the Fire Chief;
- (n) Farming and agricultural activities
- (o) Airplanes
- (p) Emergency alarms associated with Town water and sewer systems

(q) Any activity, work or undertaking which would otherwise be prohibited by this By-Law where written permission has been issued by the Town of Stonewall

5.0 CONTRAVENTION & FINES

5.1 The Notice of Breach, as provided for in this Section, and to be issued by an Officer for contravention of this By-Law shall be in the form as provided for in Schedule "A" attached hereto and forming part of this By-Law. An Officer may also issue a Common Offence Notice of the Province of Manitoba for contravention of this By-Law.

5.2 By-Law Enforcement Officers may enforce this By-Law by issuing Penalty Notices as prescribed by the Town of Stonewall Municipal By-Law Enforcement Act By-Law. A By-Law Enforcement Officer may issue a Penalty Notice to any person who contravenes, or refuses, omits, or fails to obey or observe any provision of this By-Law in the manner provided for in Section 9 and 22 of the Municipal By-Law Enforcement Act and the date of delivery shall be determined in accordance with those sections.

The period within which a person must pay the administrative penalty or request a review by a screening officer is hereby set at thirty (30) calendar days after delivery of the Penalty Notice

5.3 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. 11/20 of the Town of Stonewall is hereby repealed in its entirety.

DONE AND PASSED in Council duly assembled in the Town of Stonewall, in the Province of Manitoba this 10th day of January A.D., 2024.

TOWN OF STONEWALL


MAYOR


CAO



Read a first time this 20th day of December A.D., 2023.

Read a second time this 10th day of January A.D., 2024.

Read a third time this 10th day of January A.D., 2024.



SCHEDULE "A"
To By-Law No. 06-24

NUMBER

NOTICE OF BREACH
Town of Stonewall - Nuisance Noise By-Law No. 06-24

TO:

Name: _____

Civic Address: _____

Mailing Address: _____

You are charged that on the _____ day of _____, 20 _____ you did unlawfully -

- | | |
|----|--|
| 01 | Make, continue to cause, or allow to be made or continued by whatever means a Nuisance Noise. |
| 02 | Light or set off an explosive or noise making device, including firecrackers or other fireworks, without having obtained the authorization of the Fire Chief or the CAO of the Town of Stonewall (Section 3.2(a)). |
| 03 | The sound emanating from a musical instrument or loudspeaker, audible from a distance of 30 meters without prior authorization from the Chief of Police or CAO of the Town of Stonewall (Section 3.2(c)). |
| 04 | The sound emanating from excavation or construction work between the hours of 10:00 P.M. and 7:00 A.M. of the following day or excavation or construction work on a Sunday |
| 05 | The use and/or operation of a 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 a residential area between 10:00 P.M. and 7:00 A.M. |
| 06 | The sound emanating from operating or permitting the operation of any power or manual equipment, machinery, device or motor vehicle in such a manner as to create a nuisance noise. |
| 07 | The sound resulting from 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 PM and 7:00 AM the following day. |
| 08 | The sound resulting from rebuilding, modifying, or testing any motor vehicle, motorcycle, motorboat, outboard motor or motorized recreational vehicle in such a manner to create a noise nuisance at a point of reception between the hours of 10:00PM and 7:00AM on the following day. |
| 09 | The use and/or operation of a drum, horn, bell, radio or mechanical loudspeaker or other instrument or device or sound producing, sound re-producing, or sound transmitting instrument or apparatus for the purpose 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. |
| 10 | Loud, blasphemous, abusive or insulting language or singing or shouting or speaking in a boisterous manner. |

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/she exercised due diligence in a bona fide effort to control and abate such Nuisance Noise.

FINE AMOUNT: \$ _____ .00	1st offense, OR (min fine \$200)
\$ _____ .00	2nd or subsequent offense (min fine \$500)

Disposition of this Charge may be made by attending the Administration offices of the Town of Stonewall during office hours (8:30 AM - 4:30 PM - Mon - Fri) within 30 calendar days and pay the above noted fine.

Any request for review shall be made at the Town Office (293 Main Street) between 8:30 AM – 4:30 PM (Monday – Friday, excluding statutory holidays) within 30 calendar days after receiving this Penalty Notice by filing a Request for Review by a Screening Officer - Schedule C of the Town of Stonewall Municipal By-Law Enforcement Act By-Law available at www.stonewall.ca or at the Town Office.

Dated at Stonewall, in the Province of Manitoba this _____ day of _____, 20____.

Officer, Town of Stonewall