

THE RURAL MUNICIPALITY OF GRAHAMDALE

BY-LAW NO. 1030-2020

Being a By-law of the Rural Municipality of Grahamdale to regulate noise nuisances.

WHEREAS the Municipal Act provides authority to the Rural Municipality of Grahamdale (“Municipality”) to pass by-laws respecting regulating noise nuisances and the enforcement of by-laws.

AND WHEREAS it is deemed expedient to pass a By-law for the purpose of exercising the powers as set out in the Municipal Act, as excessive noise and sound disrupts peace, threatens order and is a serious hazard to the public health and welfare, safety and quality of life and the public has the right to and should be ensured an environment free from excessive sound that may be prejudicial to their health or diminishes the quality of life.

NOW THEREFORE the Council of the Rural Municipality of Grahamdale, in Council duly assembled, enacts the following by-law which shall govern the inspection, remedy, enforcement and action respecting noise nuisances.

1. Definitions

“**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.

“**ambient sound level**” means the ‘A’ weighted sound level at a location where it is heard, excluding the sound made by a thing mentioned in section 7.

“**by-law enforcement officer**” means a person appointed as a by-law enforcement officer by the Municipality.

“**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.

“**holiday**” has the same meaning as that term is given in the Interpretation Act.

“**precision sound level meter**” means an instrument used to measure sound levels and specified as Type 1 or Type 2 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.

Purpose

2. The purpose of this By-law is to regulate sound creating a noise nuisance. This By-law may be referred to as the Noise By-law.

General prohibition

3. No person may make, cause or allow to be made, or keep an animal or fowl that makes:
 - a. an unreasonably loud or excessive sound;
 - b. a sound which unreasonably disturbs, injures or endangers the comfort, health, peace or safety of an individual; or
 - c. a sound which is so harsh, prolonged, unnatural or unusual in time and place so as to cause an unreasonable discomfort to an individual.
4. In determining whether a person violates section 3, the following factors shall be taken into account the:
 - a. time of day and day of the week;
 - b. nature and use of the area from which the sound emanates;
 - c. nature and use of the area at which it is received;
 - d. nature of the event or activity producing the sound; and

THE RURAL MUNICIPALITY OF GRAHAMDALE

BY-LAW NO. 1030-2020

- e. volume, duration and nature of the sound, including whether it is recurrent, intermittent or constant.

Activities prohibited by the time of day

5. No person may do, cause to be carried out or allow the following activities outdoors within 150 metres of a dwelling before 7:00 a.m. and after 11:00 p.m.
 - a. operation of the following: mechanical tools or equipment used in construction, drilling, or demolition work, such as a power saw, drill, sander, grinder;
 - b. operation of lawn or garden tools, snow blower, or similar device used outdoors;
 - c. operation of a powered model;
 - d. repair, rebuild, modify or test a motor vehicle, motorcycle, motor boat, outboard motor, recreational vehicle, or off-road vehicle;
 - e. operation of motorized recreational vehicles or off-road vehicles on a property other than within the municipal right of way;
 - f. operation of an engine or motor on a motor vehicle or attached auxiliary equipment for a continuous period exceeding 10 minutes;

Prohibited activities

6. No person may do, cause to be carried out or allow the following activities:
 - a. operate, apply or otherwise use an engine retarder brake on a vehicle unless the vehicle is driven on a highway permitting the operation of vehicles and the usage retarder breaks, or in an emergency where it is necessary to use such brakes.
 - b. offer for sale or sell anything by shouting, or amplified sound within an area zoned for residential or commercial uses in the Municipality's zoning by-law passed under the Planning Act,

Air conditioners, pool equipment, air moving devices, and fans

7. No person shall operate or permit the operation of air conditioning equipment, pool equipment, air moving devices, fans, or compressors where such operation exceeds a sound level of:
 - a. 80 dBA between 7:00 a.m. and 9:00 p.m.; and
 - b. 70 dBA between 9:00 p.m. and 7:00 a.m.as measured from the location where the sound is heard.
8. There is no contravention of section 7 if the ambient sound level exceeds the limits set out in it, unless the sound level produced by the equipment or device is 5dBA or more higher than the ambient sound level.

Exemptions

9. This By-law does not apply to:
 - a. emergency sirens and signals used during an emergency by an ambulance, fire vehicle, police vehicle or any public service or emergency vehicle;
 - b. work performed in respect of the maintenance, construction demolition or otherwise working on a public right-of-way or public space;
 - c. military or other bands or parade, operating under a permit from the Municipality;

THE RURAL MUNICIPALITY OF GRAHAMDALE

BY-LAW NO. 1030-2020

- d. the ringing of places of worship or school bells and activities normally associated with places of worship and schools.
- e. operating sound producing devices during the month of December for playing Christmas carols;
- f. concerts, circuses, fair, parades or any like activity under a permit issued by the Municipality;
- g. an activity, work or undertaking performed by or through the Municipality in respect of public services, facilities or installations; and
- h. farm equipment used for agricultural uses.

Permits

- 10. A person may apply to the Municipality's Chief Administrative Officer for a permit authorizing an activity that would otherwise be prohibited under this By-law.
- 11. An application for a permit may be made by the owner or a person authorized in writing by the owner (Schedule A). The application must include:
 - a a completed and signed application form;
 - b information as to the location and intended purpose of the use; and
 - d the petition for Noise Permit as called for in Schedule B.
- 12. There will be no charge to file an Application for Noise Permit.
- 13. The Chief Administrative Officer may require the applicant to supply additional information in support of the application.
- 14. If on the basis of the application and the information supplied, it appears to the Chief Administrative Officer that the activity may be carried out subject to conditions designed to restrict or minimize the sound produced by or in the course of the activity or its effect on people, the Chief Administrative Officer may issue a permit to the applicant. Schedule C.
- 15. A permit is issued in the name of the owner, and where the applicant is not the owner, to the owner and the applicant jointly.
- 16. A permit may be issued subject to conditions designed to restrict or minimize the sound produced by or in the course of the activity or its effect on people.
- 17. A by-law enforcement officer may revoke a permit for violation of the permit conditions or this By-law.

Enforcement

- 18. A by-law enforcement officer acting under this By-law has all the powers, duties and functions of a designated officer set out in the Municipal Act:
 - a. section 242 for the purpose of making orders requiring persons responsible for the contravention of a by-law, the Act, any other Act the Municipality is authorized to enforce, and any permits, approvals, orders and agreements made or issued under this By-law, and to remedy the contravention; and
 - b. section 249 for the purpose of enforcing a contravention through an offence.
- 19. The by-law enforcement officer may carry out inspections to determine what actions or measures a person must take in connection with any matter under this By-law, whether the actions or measures set out in the order have been taken, and to prevent a re-occurrence of a contravention.

THE RURAL MUNICIPALITY OF GRAHAMDALE

BY-LAW NO. 1030-2020

20. An "order" referred to in this By-law refers to an order under section 242 of the Municipal Act.
21. An order of the by-law enforcement officer must be given in writing, and may provide that if the person does not comply with the order within the specified time, the Municipality will take the actions or measures at the expense of that person.
22. A person served with an order may request that Council to review the order, by written notice to Council within 14 days after the date of receipt of the order.
23. Upon receiving a request for review, the Chief Administrative Officer shall set a date and time for the review of the order, and shall notify the person of the date of the review. The notice shall include a statement:
 - a. of the time, place and purpose of the hearing; and
 - b. that if the person does not attend the hearing, the matter will be dealt with in their absence and there will be no further notice of this proceeding.
24. At the time and place set out in the notice, Council shall hold a hearing to consider the request for review and the order. The person may appear in person or by counsel. The person is entitled to hear the material presented at the hearing and to inspect any documents filed.
25. Following the hearing, Council shall determine and decide any matter respecting the review and the order. Council may confirm, vary, substitute or cancel the order.
26. If the person does not attend the hearing, the matter may be dealt with in their absence and the person shall not be entitled to any further notice in the proceeding.
27. The decision of Council on a review under this By-law shall be final.
28. The time specified in an order is suspended from the date of receipt of a request for review to the date upon which Council makes its decision.
29. If the order of the by-law enforcement officer so provided, the actions or measures will be taken at the person's expense. The costs of any actions or measures taken will be an amount owing by the person to the Municipality, and may be collected in any manner in which a tax may be collected or enforced under the Act.
30. The by-law enforcement officer is authorized to make expenditures on behalf of the Municipality to carry out the actions or measures if the time provided for in an order has expired and the order has not been reviewed or the order has been reviewed and Council has confirmed, varied or substituted the order.

Offence and penalty

31. A person who contravenes this By-law is guilty of an offence and is liable for payment of a penalty notice of \$1000.00.

Repeal

32. By-law 1008-2018 is hereby repealed.

DONE AND PASSED AS A BY-LAW OF THE RURAL MUNICIPALITY OF GRAHAMDALE AT MOOSEHORN, IN MANITOBA, THIS 8th DAY OF OCTOBER, 2020.

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Craig Howse, Reeve



Shelly Schwitek, Chief Administrative Officer

Read a first time this 24th Day of September, 2020.
Read a second time this 24th Day of September, 2020.
Read a third time this 8th Day of October, 2020.