

THE RURAL MUNICIPALITY OF TACHÉ

BY-LAW NO. 13-2023

BEING a By-law of the Rural Municipality of Taché to regulate and prohibit unnecessary, harmful & nuisance noise within the RM of Taché.

WHEREAS Sections 232 and 233 of *The Municipal Act* 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;
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- (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;
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- (o) the enforcement of by-laws.

233 A by-law under clause 231(1)(c) (subject to Section 233 activities or things in or on private property) may contain provisions only in respect of

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- (d) activities or things that in the opinion of council are or could become a nuisance, which may include noise, weeds, odours, unsightly property, fumes and vibrations.

AND WHEREAS it is deemed expedient to pass a By-law for the purpose of exercising the powers as set out in the said sections of the Municipal Act, as excessive sound disrupts peace, threatens order and is a serious hazard to the public health and welfare, safety and quality of life;

AND WHEREAS the public has the right to and should be ensured an environment free from excessive sound that may be prejudicial to their health or welfare or safety or diminishes the quality of life;

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

1.0 Title

- 1.1** This By-law may be referred to as “The R.M. of Taché Noise Control By-law”;

2.0 Definitions

- 2.1** 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*.

- 2.2** Wherever the singular or masculine are used throughout this By-law, the same shall be construed as meaning the plural or feminine or neutral, where the context so requires.

- 2.3** In this By-law

“**CAO**” means the Chief Administrative Officer of The RM of Taché or their designate.

“**Council**” means the Council of the RM of Taché.

“**Emergency**” means any occurrence or set of circumstances including actual or imminent physical trauma or property damage which demands immediate action.

“**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.

“**Enforcement Officer**” means

- (a) a designated officer or other person appointed and/or employed by the RM of Taché who has the authority to enforce, implement or administer all or part of this By-law, or, in the absence of such an appointment, the CAO; and

- (b) a member of the Royal Canadian Mounted Police or any Police Officer.

“**Fire Chief**” means the Municipal Fire Chief of The RM of Taché Fire Department as appointed from time to time.

“**Municipality**” means the RM of Taché.

“**Noise**” means any loud or harsh sound.

“**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 Enforcement Officer.

“Occupier” means a person who, with respect to a piece of land, is a lessee, licensee, invitee, permittee, purchaser, homesteader, pre-emption entrant or squatter and includes a party claiming through or under such person; (« occupant »)

“Owner” in the case of any property means the person or persons or the corporation shown as the registered owner on the latest revised assessment rolls of the Municipality.

“Off-road Vehicle” means an off-road vehicle as defined in “The Off-Road Vehicles Act”.

“Outdoor Speaker System” means any sound amplification device that converts electrical impulses into sound, whether the device is independent or incorporated into a radio, stereo, television, public address or other system, which is used for general listening purposes and positioned:

- (i) Outside of a building;
- (ii) Inside a building and within two (2) metres of any opening in the building including a window or doorway, where it is directed outside of the building; or
- (iii) In a tent.

“Person” means any individual and includes firm, partnership, association, corporation or group of persons and where the context requires shall include the plural as well as the singular.

“Premises” means a building or buildings including the associated land.

“Property” means real property as defined in *The Municipal Assessment Act* within the RM of Taché whether or not there is situated thereon a dwelling house or any other building.

“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.

“Weekday” means Monday through Saturday, inclusive unless it falls on a holiday, as defined in the Interpretation Act, C.C.S.M. c. 180, and amended or replaced from time to time.

“Weekend” means Sunday and any other holiday, as defined in the Interpretation Act, C.C.S.M. c. 180, as amended or replaced from time to time.

3.0 This By-law applies to all property and to all owners and occupiers of property within the RM of Taché.

4.0 Prohibited Noises

4.1 The following shall be deemed likely to be Nuisance Noise and restricted between the hours of 11:00 p.m. and 7:00 a.m. of any weekday and 11:00 p.m. and 9:00 a.m. of any weekend:

- (a) the Sound emanating from any musical instrument, outdoor speaker system or loudspeaker, when as determined by an Enforcement Officer is audible from a distance of thirty (30) metres or more, unless authorized by the CAO.
- (b) the Sound emanating from excavation or construction work of any nature except where otherwise permitted by conditional use or agreement;
- (c) 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, or similar device used outdoors;
- (d) the use or operation of Sound producing devices during the month of December in any year for the emanating of Christmas carols;

4.2 The following shall be deemed likely to be Nuisance Noise regardless of the day or hour:

- (a) the Sound caused by the lighting and/or setting off of any explosive noise making device, including a firecracker or other fireworks within the LUD's of Landmark & Lorette, unless specifically authorized by the Fire Chief or CAO;
- (b) the Sound emanating from any motorized vehicle(s) as defined within The Manitoba Highway Traffic Act C.C.S.M. c. H60, for a duration of 30 minutes or longer unless authorized by the Enforcement Officer or CAO;
- (c) any loud, blasphemous, abusive, obscene or insulting language or singing or shouting or speaking in a boisterous manner.
- (d) the excessive, prolonged sound emanating from any motorized toy, drone, recreational or off-road vehicle, as determined by an Enforcement Officer unless authorized by the Enforcement Officer or CAO;

- (e) nuisance noise created by off-road vehicles without effective exhaust or intake muffling device in good working order and in constant operation.

4.3 The property/owner, lessee, occupier or Person in control of a Premises is responsible for Noise and/or 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.

5.0 Permitted Noises

5.1 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 Enforcement 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 that
 - (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, street festival, concert, circus, block party or similar function or event authorized by the CAO;
- (c) Any agent, employee, servant or contractor of the Municipality performing services for or on behalf of the Municipality, or any agent, employee, servant or contractor of the Province of Manitoba or their agents and/or contractors performing services for or on behalf of the Province;
- (d) grass and field of play maintenance vehicles and equipment operated by the Municipality or the Province of Manitoba or their agents and/or contractors;
- (e) Sound emanating from a Fire Hall 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;
- (f) Sound emanating from the sound system of Sports Complex, Arenas and/or curling rink facilities;

- (g) the use of any bell, chime or similar Sound for the purpose of calling persons to church and/or similar school services;
- (h) 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 authorized by the CAO;
- (i) the lighting and setting off of fireworks, by certified persons, as a public display or celebration with the approval of the Fire Chief;
- (j) any farmer or agent or employee of a farmer operating farm equipment during the normal course of farming operation;
- (k) Sound emanating from the clearing of snow from commercial and multi-family parking lots and private driveways.
- (l) Snowmobiles on approved snowmobile routes travelling from a point of origin to destination and back.

6.0 Powers and Authority of Enforcement Officer

- 6.1 If an Enforcement Officer believes, on reasonable grounds, that a person is contravening any provision of this By-law, the Enforcement Officer, bearing proper credentials and identification shall be permitted to enter upon a property for the purposes of enforcement in accordance with the provisions of this by-law including what actions or measures a person must take in connection with any matter under this By-law.
- 6.2 Where in the opinion of the Enforcement Officer, a person is contravening any provision of this By-law, the Enforcement Officer may by written order, require any person responsible for the contravention to remedy it.

7.0 Offences and Penalties

- 7.1 Any person who contravenes or disobeys or refuses or neglects to obey any provision of this By-law is guilty of an offense and liable to a penalty as referenced within the Municipality's "Provincial Offences Act (POA) By-law".
- 7.2 Where an infraction of any of the provisions of this By-law continues for more than one day the person is guilty of a separate violation each day such infraction continues.

By-law No. 13-2023

7.3 Where a person who has been given notice, order or direction by the Enforcement Officer to take any action or measures necessary to remedy the contravention of the By-law and, if necessary, to prevent a re-occurrence of the contravention and neglects or refuses to comply with such order or direction within the time specified, the Enforcement Officer may cause the work to be carried out and the costs of such work is a debt owed to the Rural Municipality of Taché and the Municipality may add the amount thereof to the real property taxes of the owner and collect such fees in the same manner as taxes or take any other remedy available to the Municipality.

8.0 Coming into Force

8.1 This By-law shall be deemed to have come into force and take effect on the day after it is passed by Council.

9.0 Severability

9.1 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.

10.0 Repeal

10.1 By-law No. 15-2016 and its amendments are hereby repealed in its entirety.

DONE and PASSED as a by-law of The Rural Municipality of Taché at the Municipal Office in Lorette, Manitoba in the Province of Manitoba this 12th day of September, A.D. 2023.



Mayor.



Chief Administrative Officer.

READ a First time this 13th day of June, A.D. 2023.

READ a Second time this 11th day of July, A.D. 2023.

READ a Third time and **PASSED** this 12th day of September, A.D. 2023.