

**CITY OF THOMPSON
BY-LAW NUMBER 1849-2011**

BEING A BY-LAW TO REGULATE UNNECESSARY NOISE.

WHEREAS Section 232(1) of the Municipal Act, SM 1996, c. 58-M225 provides:

The Council may pass by-laws for municipal purposes respecting the following matters:

- (b) people, activities and things in, or near a public place, or 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.

WHEREAS Section 233(d) of the Municipal Act, SM 1996, c. 58-M225 provides inter alia:

- (a) *A by-law under clause 232(1)(c) “activities or things in or on private property, may contain provisions only in respect of (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.”*

AND WHEREAS Section 239 of the Municipal Act, SM 1996, c. 58-M225 provides:

- (1.) *If this or any other act or by-law authorizes or requires anything to be inspected, remedied, enforced or done by a municipality, a designated officer of the municipality may, after giving reasonable notice to the owner or occupier of land or building or other structure to be entered to carry out inspection, remedy, enforcement or action,*
 - (a) *enter a land or structure at any reasonable time, carry out an inspection, enforcement or action authorized or required by the act or by-law;*
 - (b) *request that anything be produced to assist in the inspection, remedy, enforcement or action; and*
 - (c) *make copies of anything related to the inspection, remedy, enforcement action.*
- (2.) *In an emergency, or in extraordinary circumstances, the designated officer need not give reasonable notice or enter at a reasonable hour, and may do things referred to in clauses in (1)(a) and (c) without the consent of the owner or occupant.*

AND WHEREAS it is deemed advisable to exercise the power set out in the said sections of the Municipal Act, as excessive sound is a serious hazard to the public health and welfare, safety and quality of life, the public has a right to and should be ensured an environment free from excessive sound that may be prejudicial to their life or welfare, or safety, or diminish the quality of life.

NOW THEREFORE BE IT RESOLVED as a By-law of the City of Thompson, and IT IS HEREBY ENACTED as follows:

2. This by-law may be referred to as “The City of Thompson Noise Control By-law”.
3. Definitions: 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.
 - (a) “City” means the City of Thompson.
 - (b) “Commercial, Industrial or Residential District” means the various zoning districts as defined in the by-laws relating to Zoning and the Planning Schemes of the City of Thompson.
 - (c) “Designated Officer” means a person appointed to a position established under Section 130 of the Municipal Act LM 1996, C. 58-Chap M225, and shall for the purposes of this by-law include all members of the Royal Canadian Mounted Police.
 - (d) “Emergency or Extraordinary Circumstances” means any occurrence or circumstance involving actual or imminent physical trauma or property damage that demands immediate action.
 - (e) “Emergency Work” means any work performed for the purpose of preventing or alleviating the physical trauma or physical damage threatened or caused by an emergency.
 - (f) “Motor Vehicle” means an automobile, motorcycle, truck or any other vehicle propelled or driven other than by muscular power.
 - (g) “Motorized Recreational Vehicle” 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.

- (h) "Noise Nuisance" means any sound or vibration caused by any sound that can be heard from a distance of thirty meters (98.4 feet) or more, or felt from a distance of 10 meters (32.8 feet) or more, which is likely to, or does annoy, injure or disturb the health, peace or safety of any person.
 - (i) "Powered Model Vehicle" means any self-propelled airborne, water-borne or land borne airplane, vessel or vehicle, which is not designed to carry a person including, but not limited to, any model airplane, boat, car or rocket.
 - (j) "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 any characteristic of such sound, including duration, intensity and frequency.
4. Except to the extent permitted by this by-law, no person shall make, continue, or cause to be made or continued, any noise nuisance, and specifically the following acts, among others, and the causing thereof, are declared to be in violation of this by-law, namely:
- (a) No person owning or possessing or harbouring any animal or bird shall allow it to create a noise nuisance.

No person shall own, possess, keep or harbour any dog which by its repeated barking, creates a noise nuisance or disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons within the neighbourhood or vicinity.
 - (b) 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.
 - (c) No person shall operate or permit the operation of a powered chainsaw so as to create a noise nuisance at a point of reception any time except between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and Saturdays and Sundays between the hours of 1:30 p.m. and 10:00 p.m.
 - (d) No person shall on any day before 7:00 a.m. or after 10:00 p.m. construct, reconstruct, alter, repair or demolish any building, structure or thing, or excavate or fill land in any manner which creates a noise nuisance or disturbs the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity.

- (e) No person shall make or cause or allow or permit to be made or caused, any noise nuisance in or on any property that disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity.
- (f) No person who is the owner or occupier or tenant of property shall use such property or any part thereof or allow or permit such property or any part thereof to be used in such a manner that noise or sound which occurs thereon or emanates therefrom creates a noise nuisance at a point of reception.
- (g) No person shall commit or abet the committing of any noise nuisance.
- (h) 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 10:00 p.m and 7:00 a.m. of the following day.
- (i) No person shall operate, play or permit the operation or playing of any device either electronic or manual, musical instrument, loudspeaker, public address system, sound amplifier or similar device which produces, reproduces or amplifies sound in such a manner as to create a noise nuisance at a point of reception at any time, unless used for the purpose of advertising some patriotic or other public object and unless a permit has been issued by the City Manager.
- (j) No person shall by shouting, or otherwise, whether by amplified sound or otherwise cause a noise nuisance within the City.
- (k) No person shall repair, rebuild, modify or test any motor vehicle, motorcycle, motorboat, outboard motor, snowmobile or motorized recreational vehicle in such a manner as to create a noise nuisance at a point of reception between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and at no time on Sundays.
- (l) No person being the owner, occupier or tenant of property shall allow or permit or be a party to vice, drunkenness, profane swearing or indecent obscene, blasphemous and grossly insulting language or other immorality or indecency which creates a noise nuisance or disturbs or tends to disturb the quiet, peace, rest, enjoyment, comfort or convenience of any person or persons in the neighbourhood or vicinity.

5. Exceptions - the provisions of this by-law shall not apply to:
- (a) A noise nuisance resulting from an activity which is being carried on and is not in breach of any applicable land use provisions, and is shown, to the satisfaction of the City Manager that the noise nuisance is not unreasonable and all reasonable steps have been taken by the owner of the property from which the noise nuisance is emanating to reduce the intensity.
 - (b) 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.
 - (c) Work performed in respect of the maintenance, construction or demolition of a public right-of-way or public space.
 - (d) Any military or other bands or any parade, operating under written permit from the City Manager.
 - (e) Any vehicle of the police or fire department or any ambulance or any public service or emergency vehicle while answering a call.
 - (f) The ringing of church or school bells.
 - (g) The reasonable use or operation of sound producing devices during the month of December in any year for the rendering of Christmas carols.
 - (h) Concerts, Circuses, Fairs, Parades, or any like activity where a permit has been issued by the City Manager.
 - (i) Any activity, work or undertaking which would otherwise be prohibited by this by-law where a permit has been issued by the City Manager.
 - (j) Aircraft and railway rolling stock.
 - (k) Any snow clearing or street cleaning activities on public or private property.
6. Enforcement - any designated officer may enter the property of any person committing an offence under this by-law and may take such action as is necessary to enforce this by-law, including the arrest of any such person where the action of that person or persons creates an emergency or constitutes an extraordinary circumstance of noise nuisance.

- 7. Penalties will be assessed in accordance with the terms and provisions of the City of Thompson Compliance By-law Number 1735-2007.
- 8. Wherever the provisions of any by-law or Town Planning Scheme of the City, or any by-law or Town Planning Scheme administered by the City impose overlapping or contradictory regulations or the control or prohibition of noise, or contain any restrictions covering any of the same subject matter contained herein, the most restrictive shall apply.
- 9. By-law Number 1666-2001 of the City of Thompson is hereby repealed.
- 10. 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.

THIS BY-LAW SHALL COME INTO FORCE ON THE DAY FOLLOWING THE DATE OF THIRD READING.

READ A FIRST TIME THIS 7th DAY OF March , 2011 A.D.

READ A SECOND TIME THIS 21st DAY OF March , 2011 A.D.

READ A THIRD TIME THIS 4th DAY OF April , 2011 A.D.

APPROVED AND ADOPTED THIS 4th DAY OF April, 2011 A.D.

THE CITY OF THOMPSON

PER:

MAYOR

PER:

CITY MANAGER