

THE RURAL MUNICIPALITY OF EAST ST. PAUL

BY-LAW NO. 2025-02

BEING a By-law of the Rural Municipality of East St. Paul to regulate noise nuisances.

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;
- (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

- (d) activities or things that, in the opinion of the council are or could become a nuisance, which may include Noise, weeds, odors, 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 Municipal Act, as excessive Noise and sound disrupts peace, threaten 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 East St. Paul, in Council 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 the pressure of the sound measured to the reference pressure, which is 20 micro pascals.

"holiday" has the same meaning as that term 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 S1.4-1971 (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 Nuisance By-law.

General prohibition

3. No person may make, cause, or allow to be made:
 - 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 that 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:
 - 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
 - e. volume, duration, and nature of the sound, including whether it is recurrent, intermittent, or constant.

5. Activities prohibited by the time of day

No person shall carry out, cause to be carried out, or allow the following activities outdoors within 150 meters of a dwelling:

Hours of Operation

- Monday to Thursday: Before 7:00 a.m. and after 9:00 p.m.
- Friday to Sunday: Before 9:00 a.m. and after 11:00 p.m.
- Statutory Holidays: Any holiday falling on a Monday will follow the same schedule as Friday to Sunday.

Restricted Activities

1. Operation of mechanical tools or equipment used in construction, drilling, or demolition, including but not limited to power saws, drills, sanders, and grinders.
2. Operation of lawn or garden tools, snow blowers, or similar outdoor devices.
3. Operation of powered models (such as remote-controlled vehicles or devices).
4. Repair, rebuilding, modification, or testing of motor vehicles, motorcycles, motorboats, outboard motors, recreational vehicles, or off-road vehicles.
5. Operation of motorized recreational vehicles or off-road vehicles on a property, except within the municipal right-of-way.
6. Operation of an engine or motor on a motor vehicle or attached auxiliary equipment for a continuous period exceeding 10 minutes.

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. from Monday to Thursday, or before 9:00 a.m. and after 9:00 p.m. on Fridays, Saturdays, Sundays. Any statutory holidays that fall on a Monday will follow the same schedule set forth from Friday to Sunday:

- 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, motorboat, 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 shall:
 - a. Operate engine retarder brakes on any municipal road in the Municipality or on those portions of PTH 59 located within the Municipality ("PTH 59 locations") described as
 - (i) that portion of PTH 59 lying to the NORTH of the intersection of PTH 101 and PTH 59 and continuing to the Floodway Bridge on PTH 59, a distance of 4500 metres, and

- (ii) PTH 59 from the SOUTHWEST bound on-ramp of PTH 59 to PTH 101, a distance of 670 metres.

The Municipality will install and maintain signs prohibiting the use of engine retarder brakes in such locations on municipal roads in the Municipality as the Municipality determines.

The Municipality authorizes the Department of Transportation and Infrastructure to install and maintain, in locations determined by the Director of Traffic Engineering and at the Municipality's expense, signs prohibiting the use of engine retarder brakes within the PTH 59 locations. The notice of ministerial approval of the enforcement of this section within the PTH locations will be attached to and form part of this By-law.

- 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. 55 dBA between 7:00 a.m. and 9:00 p.m.; and
 - b. 50 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 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 parades operating under a permit from the Municipality;
 - 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, fairs, 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. aircraft, railway rolling stock, and farm equipment used for agricultural uses.

Permits

10. A person may apply to the Municipality's Chief Administrative Officer for a Noise Exemption Permit authorizing an activity that would otherwise be prohibited under this By-law.
11. An application for a Noise Exemption Permit may be made by the owner or a person authorized in writing by the owner. The application must include:
 - a. a completed and signed application form;
 - b. information as to the location and intended purpose of the use;
 - c. the fee called for in Schedule A and;
 - d. the petition for Noise Permit as called for in Schedule B.
12. The Chief Administrative Officer may require the applicant to supply additional information supporting the application.
13. If, after reviewing the application and the provided information, the Chief Administrative Officer determines that the activity can be conducted with conditions aimed at reducing or mitigating the sound generated by the activity or its impact on people, the Chief Administrative Officer may grant a permit to the applicant.
14. A permit is issued in the name of the owner, and if the applicant is not the owner, the permit is granted jointly to both the owner and the applicant.
15. 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.
16. A By-law Enforcement Officer may revoke a permit for violating the permit conditions or this By-law.

Enforcement

17. 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 offense.
18. The by-law enforcement officer may conduct inspections to assess the actions or measures a person must take in relation to any matter under this By-law, verify whether the required actions or measures have been implemented, and ensure that the contravention does not recur.
19. An "order" referred to in this By-law refers to an order under section 242 of the Municipal Act.
20. An order from the by-law enforcement officer must be given in writing, and the Municipality 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.

21. A person served with an order may request that Council review the order by written notice to Council within 14 days after receipt of the order.
22. Upon receiving a request for review, the Chief Administrative Officer shall set a date and time for the review of the order and notify the person of the review date. 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.
23. 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.
24. 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.
25. 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.
26. The decision of Council on a review under this By-law shall be final.
27. 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.
28. If the by-law enforcement officer issues an order, any actions or measures taken to address the issue will be at the expense of the individual involved. The costs associated with these actions or measures will constitute a debt owed by the person to the Municipality. This debt may be collected using the same methods as those employed for the collection or enforcement of taxes under the Act.
29. The by-law enforcement officer is authorized to incur expenses on behalf of the Municipality to implement the required actions or measures if the timeframe specified in an order has expired, and either the order has not been reviewed, or if reviewed, the order has been confirmed, varied, or substituted by Council.

Offense and penalty

30. A person who contravenes this By-law is guilty of an offense and is liable on summary conviction to a fine of not more than \$1,000.00. In addition to a fine, the person is liable to a penalty relating to the Municipality's costs of enforcement associated with the offense.

Repeal

31. By-laws 2016-04 and 2019-06 remain in force to the extent necessary for the enforcement of a violation that occurred before this By-law came into force. A

permit issued under By-laws 2016-04 and 2019-06 is treated as if it was issued under this By-law.

DONE and PASSED as a by-law of The Rural Municipality of East St. Paul at the Municipal Office in East St. Paul, Manitoba, in the Province of Manitoba this 28th day of January, 2025.



Carla Devlin
Mayor



Suzanne Ward
Chief Administrative Officer

Read a first time this	14th	day of	January, 2025
Read a second time this	28th	day of	January, 2025
Read a third time this	28th	day of	January, 2025