

# RIVERDALE MUNICIPALITY BY-LAW 2018-09

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**Being a By-Law of Riverdale Municipality to provide for the regulation of public order and noises, to be known as the "Nuisance By-law".**  
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**WHEREAS** Riverdale Municipality is empowered under Section 369 of *The Municipal Act*, R.S.M. 1988 c.M225 to provide for regulating public order;

AND WHEREAS Riverdale Municipality is empowered under Section 378 of *The Municipal Act*. R.S.M. 1988 c.M225 to provide for prohibiting noises;

AND WHEREAS it has been found necessary to make provisions for the maintenance of order and for the suppression of nuisances or noise within Riverdale Municipality;

NOW THEREFORE, the Council of Riverdale Municipality, in regular session assembled enacts as follows:

## PART I: DEFINITIONS

### 1. DEFINITIONS

(a) 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*.

(b) All reference herein to "he" shall include "she" unless the context thereof requires otherwise.

(c) In this by-law:

(1) **"CHIEF OF POLICE"** means the Chief of Police for Riverdale Municipality and anyone acting or authorized to act on his behalf.

(2) **"MUNICIPALITY"** means Riverdale Municipality or the area contained within the boundaries thereof.

(3) **"COUNCIL"** means the Council of Riverdale Municipality.

(4) **"FIRE CHIEF"** means the Fire Chief for Riverdale Municipality and anyone acting or authorized to act on his behalf.

(5) **"HUNT"** means chasing, driving, flushing, attracting, pursuing, worrying, following after or on the trail of, searching for, shooting at, stalking or lying in wait for a wild animal, whether or not the wild animal is then or subsequently captured, killed, taken or wounded, but does not include stalking, attracting, searching for or lying in wait for wild animals by an unarmed person solely for the purpose of watching or taking pictures of wild animals.

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- (6) "**NOISE**" means any loud or harsh sound.
- (7) "**NUISANCE**" means an activity which interferes with the reasonable use of public or private property by any individual entitled to use such property.
- (8) "**OFFICER**" means a peace officer, police officer or constable working for the Rivers Police Service or any person appointed as a by-law enforcement officer unless the context thereof requires otherwise.
- (9) "**PEDESTRIAN**" means any person afoot.
- (10) "**PERSON**" means any individual and includes firm, partnership, association, corporation, company, or group of persons.
- (11) "**RESIDENTIAL AREA**" means any area where persons maintain a residence, including all areas zoned as Residential pursuant to Riverdale Municipality Zoning By-law and all other areas where residences are maintained.
- (12) "**STREET**" means any public right of way, including a highway, providing primary access to abutting property, used as a public thoroughfare for vehicles and pedestrians including streets under construction or repair, and where the context so requires, includes any square, park, commons, driveway, or parkway, and includes lanes and alleys.
- (13) "**TRAP**" means taking, capturing or killing or attempting to take, capture or kill wild animals by any means or device designed to enclose, capture, hold, ensnare or otherwise restrain a wild animal whether than means or device kills the animal or not.
- (14) "**URBAN AREAS**" shall include high density areas including the urban areas of Rivers, Chimo and Wheatland.
- (15) "**VEHICLE**" shall include any carriage, cart, wagon, sled, sleigh, motorcycle, motor vehicle, trailer, truck, bus, traction engine, bicycle, and any vehicle drawn, propelled or driven by any kind of power, including muscular power, but does not include the cars of electric, steam or diesel electric railways running only on rails.
- (16) "**WILD ANIMAL**" means an animal or bird of a species or type listed in Schedule "A" of *The Wildlife Act*, RSM 1987, c. W130, or declared by the regulations to be a wild animal.
- (17) "**DRIVER**" means every person who drives or is in actual physical control of a vehicle.

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### PART II: PROHIBITED NOISES

2. Except where otherwise permitted by this By-law, no person shall make, continue or cause, or allow to be made or continued, by whatever means, any noise which does, or is likely to, annoy, disturb, injure, endanger or detract from the peace, health or safety of any other person.
3. Without restricting the generality of Section 2 hereof, the following shall be deemed likely to annoy, disturb, injure, endanger or detract from the peace, health or safety of any other person:
  - a) the sound caused by the discharge of a gun or other firearm, grenade, or any other explosive or noise making device, including a firecracker or other fireworks, unless specifically authorized by the Chief of Police, Fire Chief or Council;
  - b) the sounding of any auditory warning device, including but not limited to a bell, burglar alarm, horn or siren, except when required by law or in order to give warning of the existence of a present or impending dangerous situation;
    - a. Any home and/or business alarms are to be registered with the Rivers Police Service at no cost. Registration must include contact information for the property owner and the service provider.
  - c) the sound emanating from any musical instrument or loud speaker, when audible from a distance of thirty meters (97.5 feet) or more, unless authorized by the Chief of Police or Council;
  - d) the sound emanating from an improperly operated or maintained vehicle, including the squealing of tires, the operation of a vehicle with an improperly maintained or otherwise deficient exhaust system and those noises which emanate from a vehicle by reason of its state of disrepair;
  - e) the sound resulting from the operation of an internal combustion engine, whether situated within a vehicle or otherwise, except where used in conjunction with an exhaust system and muffler which effectively prevents the emanating of loud or unusual noises;
  - f) the sound emanating from excavation or construction work of any nature between 2100 hours of any day and 0700 hours of the next following day (9:00 p.m. - 7:00 a.m.), except in such locations where such conduct is permitted by applicable land use provisions, or where authorized by the Chief of Police;
  - g) the sound resulting from the operation of any motorized lawn mower, snow clearing device, chain saw, motorized garden tiller, motorized toy, tool, musical instrument, social gathering or loud speaker in any residential area between 2200 hours of any day and 0700 hours of the next following day (10:00 p.m. - 7:00 a.m.). This provision shall apply notwithstanding Section 4 hereof;

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- h) 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 reproducing, 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;
- i) any loud, blasphemous, abusive, obscene, or insulting language or singing or shouting in a boisterous manner;
- j) Any loud, excessive, or continual barking, howling, wailing, caterwauling or other sound caused by any domestic animal.

### **PART III: PERMITTED NOISES**

- 4. 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 Chief of Police, that:
    - a. the sound intensity level is not unreasonable, taking into consideration the type of activity allowed by the applicable land use provisions; and
    - b. all reasonable steps have been taken by the owner of the property from which the sound is emanating in order to reduce the intensity;
    - c. a permit is required for all events that generate noise or can be considered a nuisance outside of the allowable hours provided herein.
  - b) sound emanating from any parade authorized by the Chief of Police, and including all military parades;
  - c) the use of any bell, whistle or similar sound in conjunction with the operation of the railway locomotive, engine or other rolling stock when used in accordance with other applicable laws and in particular The Railway Act of Canada;
  - d) snow clearing and road maintenance vehicles operated by Riverdale Municipality or the Province of Manitoba Department of Highways, or their designates;
  - e) sound emanating from the Fire Hall alarms, or the sirens of any emergency vehicle while engaged in providing public service to the residents of, or visitors to Riverdale Municipality;
  - f) sound generated by emergency work of any nature when such work is authorized by the Chief of Police or Fire Chief;
  - g) the use of any bell, chime, or similar sound for the purpose of calling persons to church and/or school services or the midday siren.

### **PART IV: NUISANCES**

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5. a) No person shall be allowed to stand in groups or to sit or lounge on chairs, benches or other things or to loiter in front of any business establishment or residence or in a street so as to cause any obstruction to the free use of said street or, by any manner of conduct, commit any public nuisance by collecting, loitering or standing as an idler on any of the streets or sidewalks of Riverdale Municipality, or in any public place within Riverdale Municipality, or on the step of or approach to a house or other premises open to a street whereby a member or members of the public are liable to be subjected to disturbance or annoyance provided that nothing contained in this Section shall be construed to extend to any person taking part in any lawful procession or gathering.
6. No person shall advertise any sale of merchandise, furniture or any other article, matter or thing by the ringing of any bell, blowing of any horn, crying, or creating any other discordant noise in any of the streets of Riverdale Municipality.
7. No person shall climb, bark, break, peel, cut, deface, injure or destroy the whole or any part of any tree, sapling, or shrub now growing or which may hereafter be planted by any person or by the Public Works Department in any street or public place of Riverdale Municipality, nor may any such tree be removed or cut down unless by permission of the Public Works Department or Council.
8. No person shall cast, project or throw any stones or balls of snow or ice or other missiles dangerous to the public in any of the streets or public places in the Urban areas of the municipality.
  - 8.1 No person shall use a bow and arrow, crossbow, pellet or BB gun, fire or discharge any gun, fowling piece or firearms within the Urban areas of the municipality unless prior written approval is granted by the Chief of Police.
  - 8.2 No person shall hunt, trap, take, kill or capture, or attempt to trap, take, kill or capture a wild animal within the Urban areas of the municipality.
  - 8.3 An officer, or an individual or business authorized to do so by the Chief of Police, may capture or kill a wild animal for the purpose of protecting the property or public safety, research or the management of wild animals.
  - 8.4 An officer, or an individual or business authorized to do so by the Chief of Police, may discharge a firearm, or use a bow and arrow, crossbow, pellet or BB gun in the execution of their duties.

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9. No person shall post or put up any offensive or indecent placard, writing or picture or write any indecent, offensive or immoral words or make any indecent pictures or drawings, any of which may be morally offensive to humiliate or to modesty and delicacy, on any public or private building, wall, fence, sign, monument, post, sidewalk or pavement, in any of the streets or public places of Riverdale Municipality.
- a. All event signage placed within Municipal rights of way (including boulevards and ditches) require permission from the municipality and must be removed within 24 hours of the end of the event advertised. Events include but are not limited to: garage sales, weddings
10. Every person found drunk or disorderly or drunk and disorderly in any street or public place, shall be liable to the penalties of this by-law.
- 10.1 It shall be an offence for any person to use a skateboard on private or public property, including but not limited to parks, recreation centres, restaurants, facilities, retail stores and malls, on which there is erected and maintained signage indicating that skateboarding thereon is prohibited.
- 10.2 The owner or person in charge or control of private property who wishes to take advantage of the above regulation for the purpose of keeping persons from skateboarding on the property shall erect and maintain thereon clear and legible signs which indicate that, pursuant to the municipality's Nuisance By-law, skateboarding is prohibited.
- 10.3 Where any person in charge or control of a skateboard commits any infraction of the regulations contained herein respecting skateboards, a Police Officer or Constable working for the Rivers Police Service or such other person authorized to act by the Chief of Police may, upon observing any such infraction, seize such skateboard and impound same for a period of thirty (30) days. The owner of any such skateboard so impounded, may recover same by:
- i. providing sufficient proof of ownership to the Police Services; and
  - ii. paying a fine as established in the Section 11.

### **PART V: PENALTIES**

11. (a) Any person who contravenes, neglects, omits or fails to obey or observe any provision of this By-law is guilty of an offense and is liable on summary conviction to a fine not exceeding One Thousand Dollars (\$1,000.00) and costs on conviction or to imprisonment for a term not

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exceeding ninety (90) days or to both such a fine and such an imprisonment.

Any person guilty of a 1<sup>st</sup> offence is liable to a fine of One Hundred Fifteen Dollars (\$115).

Any person guilty of a 2<sup>nd</sup> offence is liable to a fine of One Hundred Seventy Five Dollars (\$175).

Any person guilty of a 3<sup>rd</sup> or subsequent offence is liable to a fine of Three Hundred Twenty Dollars (\$320) or is liable on summary conviction to a fine not exceeding One Thousand Dollars (\$1000) and costs on conviction or to imprisonment for a term not exceeding ninety (90) days or to both such a fine and such an imprisonment.

(b) Where the contravention, refusal, neglect, omission or failure continues for more than one (1) day, the person is guilty of a separate offense for each day that it continues.

### **PART VI: REPEAL AND ENACTMENT**

12. (a) By-law No. 20-79 and amending By-law Nos. 12-89 and 14-92 are hereby repealed.

(b) The repeal of the by-laws in the last preceding subsection mentioned shall not revive any By-law or any provision of any By-law repealed by them, nor shall the said repeal prevent the effect of any saving clause in the said by-laws or the application of any of the said by-laws or any other by-law or provision of law formerly in force to any transaction, matter or thing anterior to the said repeal to which they would otherwise apply.

(c) The repeal of the said by-laws should not affect:

- I. Any penalty, forfeiture or liability incurred before the time of such repeal, or any proceedings for enforcing the same had, done, completed or pending at the time of such repeal; or
- II. Any action, suit, judgment, decree, certificate, execution, process, order, rule or any proceeding, matter or thing whatever, respecting the same had, done, made, entered, granted, completed, pending, existing or in force at the time of such repeal; or
- III. Any act, deed, right, title, interest, grant, assurance, registry, rule, regulation, contract, lien, charge, matter, or thing had, done, made, acquired, established, or existing at the time of such repeal; or
- IV. Any office, appointment, commission, salary, allowance, security, duty, or any matter or thing appertaining thereto at the time of such repeal; or

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- V. Any bond, note, debenture, debt, or other obligation made, executed, or entered into by Riverdale Municipality at the time of such repeal.
- (d) The repeal of the said by-laws shall also not defeat, disturb, invalidate, or prejudicially affect any matter or thing whatsoever had, done, completed, existing or pending at the time of such repeal.

DONE AND PASSED by the Council of Riverdale Municipality, in meeting duly assembled, at Rivers, in Manitoba, this 4<sup>th</sup> day of September A.D. 2018.

*Original signed by T. Gill*

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Mayor – Todd Gill

*Original signed by K. Bridgeman*

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Chief Administrative Officer

Read a first time this	<u>17<sup>th</sup></u>	day of	<u>July</u>	A.D.	<u>2018</u>
Read a second time this	<u>4<sup>th</sup></u>	day of	<u>September</u>	A.D.	<u>2018</u>
Read a third time this	<u>4<sup>th</sup></u>	day of	<u>September</u>	A.D.	<u>2018</u>