

**TOWN OF VIRDEN
NUISANCE BY-LAW NO. 2646**

BEING A BY-LAW OF THE TOWN OF VIRDEN TO PROVIDE FOR THE REGULATION OF PUBLIC ORDER AND NOISES, TO BE KNOWN AS THE “NUISANCE BY-LAW”.

WHEREAS the Town of Virden is empowered under Section 232 of The Municipal Act, L.M. 1996 to provide for regulating public order;

AND WHEREAS the Town of Virden is empowered under Section 233 of The Municipal Act, L.M. 1996 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 the Town of Virden;

NOW THEREFORE, the Council of the Town of Virden 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) “**RCMP**” means the Staff Sergeant for the local RCMP Detachment and any one acting or authorized to act on his behalf.
 - (2) “**TOWN**” means the Town of Virden or the area contained within the boundaries thereof.
 - (3) “**COUNCIL**” means the Council of the Town of Virden.
 - (4) “**FIRE CHIEF**” means the Fire Chief for the Wallace District Fire Department and anyone acting or authorized to act on his behalf.
 - (5) “**NOISE**” means any loud or harsh sound.
 - (6) “**NUISANCE**” means an activity which interferes with the reasonable use of public or private property by any individual entitled to use such property.
 - (7) “**OFFICER**” means a peace officer, police officer or constable working for the local RCMP or any person appointed as a by-law enforcement officer or designated officer unless the context thereof requires otherwise.
 - (8) “**PARKS DEPARTMENT**” means the Parks Department of the Town of Virden
 - (9) “**PERSON**” means any individual and includes firm, partnership, association, corporation, company, or group of persons.

- (10) **“RESIDENTIAL AREA”** means any area where persons maintain a residence, including all areas zoned as Residential pursuant to the Town’s Zoning By-law and all other areas where residences are maintained.
- (11) **“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.
- (12) **“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.

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 RCMP, 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.
 - (c) the sound emanating from a musical instrument or loud speaker, when audible from a distance of thirty metres (97.5 feet) or more, unless authorized by the RCMP 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 22:00 hours of any day and 0700 hours of the next following day (10:00 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 RCMP;
 - (g) the sound resulting from the operation of any motorized lawn mower, snow clearing device, chain saw, motorized garden tiller or motorized toy 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;

- (h) the sound created by the use or operation of any drum, horn, bell, radio or mechanical loudspeaker, or other instrument of 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 good, 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 RCMP, that:
 - (i) the sound intensity level is not unreasonable, taking into consideration the type of activity allowed by the applicable land use provisions; and
 - (ii) all reasonable steps have been taken by the owner of the property from which the sound is emanating in order to reduce the intensity;
- (b) sound emanating from any parade authorized by the RCMP, 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 the Town of Virden of the Province of Manitoba Department of Highways or their designates and individuals clearing commercial parking lots;
- (e) sound emanating from the Fire Hall alarms, of the sirens of any emergency vehicle while engaged in providing public service to the residents of, or visitors to the Town or during testing of the Emergency Measures Organization civil defense siren;
- (f) sound generated by emergency work of any nature when such work is authorized by the RCMP 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.

PART IV: NUISANCES

5. 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 the 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 the Town, or in any public place within the Town, 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 a 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 the Town.
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 Parks Department in any street or public place of the Town, nor may any such tree be removed or cut down unless by permission of the Parks Department.
8. No person shall cast, project or throw any stones or balls of snow or ice or other missiles dangerous to the public or use any bow and arrow in any of the streets of public places of the Town.
- 8.1 No person shall fire or discharge any gun, fowling piece of firearms within the Town unless prior written approval is granted by the RCMP.
9. No person shall indecently expose himself in any of the streets or public places of the Town nor shall the plea answering the call of Nature be considered a palliation of the offense.
10. No person shall post or put up any indecent placard, writing or picture or write any indecent or immoral words or make any indecent pictures or drawings, any of which may be morally offensive 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 the Town.
11. Every person found drunk or disorderly in any street or public place, shall be liable to the penalties of this by-law.
- 11.1 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.
- 11.2 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 Town's Nuisance By-law, skateboarding is prohibited.
- 11.3 Where any person in charge or control of a skateboard commits any infraction of the regulations contained herein respecting skateboard, RCMP 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:
 - (a) providing sufficient proof of ownership to the Town of Virden; and
 - (b) paying a fine as established in the Town's Annual Fee Schedule.

PART V: PENALTIES

12. (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 no lower than One Hundred Dollars (\$100.00) 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

- 13. (a) By-law No. 2235 is hereby repealed.
 - (b) The repeal of the by-law in the last preceding subsection mentioned shall not revive any By-law of 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-law 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, executive, 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
 - (v) Any bond, note, debenture, debt, or other obligation made, executed, or entered into by the Town at the time of such repeal.
 - (d) The repeal of the said by-law 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.
14. This by-law shall come into full force and take effect upon the passage there.

DONE AND PASSED by the Council of the Town of Virden, duly assembled this 19th day of June A.D. 2007.

Mayor

Chief Administrative Officer

Read a first time this 5th day of May, A.D., 2007
Read a second time this 5th day of May, A.D., 2007
Read a third time this 19th day of June, A.D., 2007