

THE RURAL MUNICIPALITY OF MONTCALM

BY-LAW NO. 834/22

Being a by-law of the Rural Municipality of Montcalm to provide for the regulation, reduction and/or prevention of Noise.

WHEREAS, Section 232 of The Municipal Act, (Manitoba) provides as follows:

Sec 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 centers, 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;

Sec 232 (1)(0) The enforcement of by-laws

Sec 232 (2) Without limiting the generality of subsection (1), a council may in by-law passed under this division:

- a) regulate or prohibit.

Sec 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.

Sec 236 (1) Without limiting the generality of clause 232 (1)(0), a by-law passed under that clause may include provisions:

- b) remedying contraventions of by-laws 368/87.

AND WHEREAS Section 3(2)(a) of the Municipal By-law Enforcement Act C.C.SM.0 M245 states a municipality may require administration penalties to be paid if the municipality designates the By-law contraventions that may be dealt with by a penalty notice.

NOW THEREFORE, the Council of the Rural Municipality of Montcalm duly assembled, enacts as that:

1. Prohibited Noises

No person shall make, continue to cause, or allow any Nuisance Noise except where otherwise permitted by this By-Law.

The following shall be deemed likely to be Nuisance Noise and restricted between the hours of 10:00 pm and 7:00 am but not limited to;

- a. Any excessive noises whatsoever at any time.
- b. The discharge of firearm, grenade, firecrackers, or the operation of any other sort of noise making device, without prior approval in writing by the Municipality.

- c. Noise caused by fireworks unless specially authorized in writing by the fire chief.
- d. The sounding of any horn or signaling devices of any unreasonable, loud, or harsh sound; the sounding of such devices for any unnecessary and unreasonable period of time other than by accident or mechanical, electrical or other difficulty or failure; and the use of any such signaling device where traffic is held up shall be deemed a violation.
- e. The sound of any music, musical instruments, singing and/or speaking, or other sound-producing machine whether electronically amplified or not, that disturbs the peace and quiet of neighbors and can be heard at a distance of thirty (30) meters or at the point of reception (whichever is the most severe) at any time.
- f. The use or operation or permitting to be played, used, or operated any radio, receiver set, television, musical instrument, phonograph, tape recorder, loudspeaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public in any residential area, except with the proper permit.
- g. Excessive noises made by vehicles of any kind due to the vehicle being in a state of disrepair, due to modification of the vehicle, or due to the vehicle not being equipped with adequate noise reduction (i.e. lack of properly installed muffler)
- h. Yelling, shouting, or creating other loud noises which annoy or disturb the quiet, comfort or repose of persons in any office, dwelling, hotel or residence or of any persons in the vicinity shall be deemed a violation of this by-law.
- i. Construction, repair, or demolition work to commercial or residential buildings, roadways, utility facilities or infrastructure shall only be permitted during the hours of 7:00am and 10:00pm. Such work that disturbs the comfort or repose of others, shall be deemed a violation of this by-law.
- j. Pounding or hammering on any metal object or thing, except inside a building or in connection with the construction or erection of a building, shall be deemed a violation of this by-law.
- k. Operating or permitting the operation of any recreational vehicle or equipment including but not limited to ATV's, SxS's, snowmobiles, dirt bikes, which creates a noise nuisance on weekdays between the hours of 10:00pm to 7:00am the following day or on Saturday and Sundays and statutory holidays before 9:00am and after 10:00pm that same day.
- l. Operating or permitting the operation of any mechanical powered saw, drill, sander, grinder, lawn or garden tool, snowblower, or similar device used outdoors, which creates a noise nuisance on weekdays between the hours of 10:00pm to 7:00am the following day or on Saturday and Sundays and statutory holidays before 9:00am and after 10:00pm that same day.
- m. Excessive noises made by unattended pets.

The following shall be deemed likely to be Nuisance Noise regardless of the hour;

- n. Operate, apply or otherwise use an engine retarder brake or any vehicle driven withing an Engine Retarder Brake Prohibited Zone (Attached Schedule C) within the Rural Municipality of Montcalm, except in an emergency where it is necessary in the circumstances to do so.

2. Permitted noises:

None of the provisions of this by-law shall apply to:

- a. Snow Clearing, road maintenance and road construction vehicles and equipment operated by the RM or the Province of Manitoba or their agents and/or contractors.
- b. Snow Clearing equipment operated by private residents, private contractors or businesses during the hours of 10:00 pm and 7:00 am in the event of a large snow event.
- c. The use, in a reasonable manner, of any apparatus or mechanism for the amplification of the human voice or of music in a public park or other commodious space in connection with a public election meeting, public celebration, festival or other reasonable gatherings.
- d. Any vehicle of the police, fire or ambulance or any public service or emergency vehicle while answering a call.
- e. Work performed with respect to the maintenance, construction or demolition of a public right of way or public space, assuming such work is not taking place during the hours of 10:00pm and 7:00am the following day unless emergency circumstances dictate.
- f. Concerts, circuses, fairs, parades, special private parties, festivals or any like activity where application Noise permit (attached Schedule B) is approved by the RM.
- g. Any exceptions approved in writing by the Municipality as a variance to this by-law.
- h. Ringing of church bells by a church or school.
- i. Aircraft used for agricultural purpose.
- j. Any operation of agricultural machinery being used for agricultural purpose.
- k. Any military or other band or any parade, operating under written permission first obtained from the RM.
- l. Any sound arising from the operation of any railway which operates under *The Railway Act of Canada* or from any plant or work in connection with any such railway.
- m. Residents who have an approved Noise Permit issued by the Municipality following these guidelines:
 - i. The resident must apply to the Municipality with an application (Attached as Schedule B) and fee as per the schedule of Fees Bylaw, 30 days prior to the event.
 - ii. Once an application and fees have been received, notice will be circulated to neighbors within 100 meters.
 - iii. The permit will be issued by administration; however if concerns are submitted in writing, the application and concerns will be reviewed by Council who will determine by resolution if a permit is to be issued or withheld.

3. Noise complaint process

In the event a property owner or resident of the RM of Montcalm wishes to register a complaint against another resident or property owner due an alleged violation of this by-law, the process shall be as follows:

a. A letter describing the nature of the complaint should be sent to the attention of the Chief Administrative Officer of the RM of Montcalm as the following address:

Chief Administrative Officer
RM of Montcalm
46 First St E, PO Box 300
Letellier, MB R0G 1C0

b. After review of the complaint, if warranted, the RM will provide a letter of warning to the alleged violator informing them of the complaint and inviting a response to the complaint within 7 days.

c. The RM will review the complaint and response (if any) and will come to a decision as to whether a by-law violation has taken place.

d. In the event it is decided a by-law violation has taken place, the violator will be assessed a fine in accordance with schedule A (attached).

e. Where the contravention, refusal, neglect, omission or failure, continues for more than one day, the person is guilty of separate offense for each day that is continues.

f. The owner of real property and/or personal property from which a noise nuisance emanates shall be deemed to have permitted the noise nuisance.

g. If, at any point in the process, it becomes clear that the complaint does not have merit, the complainant will be informed by the Municipality of this in writing, including an explanation as to the basis for which the complaint was rejected.

4. Liability of Property Owner

Although it is the opinion of Council that the Tenant on any property should bear responsibility for their actions, this does not release the Owner from responsibility for the conduct of their Tenant.

Therefore;

- a. All Owners will be notified of any fines assessed against a Tenant.
- b. In the event a fine is assessed against a Tenant, and collection from the Tenant is unsuccessful within 90 days, this fine will become the responsibility of the Owner.
- c. The Owner will be notified of the Tenant's non-payment of the fine and be given 90 days to pay the fine.
- d. In the event the Owner does not pay the fine, it shall be assessed against the tax roll of the property through a motion of Council.

5. Enforcement

1. The position of an Officer is established. The Officer shall be the person appointed by the Municipality as its By-law Enforcement Officer.
2. The By-law Enforcement Officer may conduct inspections and take steps to administer and enforce this By-law or to remedy a contravention of this By-law, and for those purposes shall be a designated officer and have the powers of a designated officer under the Act, a by-law enforcement officer under the Municipal By-law Enforcement Act.
3. The Officer may enter the property and building to carry out the administration and enforcement of this By-law including for determining what actions or measures a person must take in connection with any matter under this By-law,


whether the actions or measures have been taken, to prevent the contravention of this By-law, to remedy a contravention of this By-law and to prevent a re-occurrence of a contravention.

4. The Officer may commence a prosecution under the Act, the Municipal By-law Enforcement Act for the purpose of enforcing a contravention of this By-law through an offence.

6. Repeal

By-law No. 368/87 is hereby repealed.

DONE AND PASSED in Council assembled at the Council of the Rural Municipality of Montcalm in the Province of Manitoba this 22nd day of June, 2022 A.D.



REEVE, Paul Gilmore



C.A.O., Jolene Bird, CMMA

Read a first time this 22nd day of June, 2022
Read a second time this 22nd day of June, 2022
Read a third time this 22nd day of June, 2022

**RURAL MUNICIPLAITY OF MONTCALM
SCHEDULE "A" to By-Law 834/22**

Fines assessed due to violations to the Rural Municipality of Montcalm By-law

First Violation: Waiver of fine, letter of warning detailing potential future fines

Second Violation: \$100

Third Violation: \$200

Fourth and Subsequent Violations: \$500



Schedule "B" to By-law No. 834/22

Noise Permit Application

Applicant Information:

(First Name) (Last Name)

(Mailing Address)

(City) (Province) (Postal Code)

(Daytime Phone No.) (Evening Phone No.)

(Email Address)

Event Information:

(Type of Event)

(Location -Civic Address and/or Legal Description)

(Date) (Time)

\$ _____ costs non-refundable fee Receipt No. _____

Applicant Signature: _____ **Roll#** _____

Approval Signature:

Chief Administrative Officer



Schedule "C" to By-law No. 834/22

Engine Retarder Brake Prohibited Zones

AREA	DESCRIPTION OF AREA
1	PR 201 from the junction of PR 426 for a distance of 1.0 km in both directions
2	PR 426 from the junction of PR 201 for a distance of 1.0 km in both directions
3	PR 201 from the junction of 1 st Street East in Letellier for a distance of 1.0 km to the east
4	PR 201 from the junction of 1 st Street East in Letellier west to PTH 75
5	PTH 75 from the junction of PR 201 for a distance of 1.0 km north and 1.0 km south
6	Within the Settlement Centre Policy Areas as defined in the RM of Montcalm Development Plan By-Law 789/18
7	PTH 75 from the north entrance of St. Jean Baptiste to the south entrance of St. Jean Baptiste
8	PTH 75 from the junction of the north entrance to St. Jean Baptiste north for a distance of 1.0 km
9	PTH 75 from the junction of the south entrance to St. Jean Baptiste south for a distance of 1.0 km