

**RURAL MUNICIPALITY OF WHITEMOUTH**

**BY-LAW NO. 687/19**

*BEING A BY-LAW TO REGULATE UNNECESSARY AND HARMFUL NOISE WITHIN THE RURAL MUNICIPALITY OF WHITEMOUTH AND TO REPEAL BY-LAW 583/12*

**WHEREAS** Section 232 and 233 of *The Municipal Act*, L.M. 1996, c.58 Cap. M225 provide in part as follows:

232(1) A Council may pass by-laws for municipal purposes respecting the following:  
(a) The safety, health, protection and well-being of people, and the safety and protection of property  
(c) Subject to section 233, activities or things in or on private property;

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 considered desirable and necessary to prohibit all loud, unnecessary or unusual noises or any noise which annoys, disturbs, injures or endangers the comfort, peacefulness, health or welfare of citizens of the Rural Municipality of Whitemouth;

**NOW THEREFORE** the Council of the Rural Municipality of Whitemouth in session duly assembled, enacts as follows;

1. **DEFINITIONS** 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*;
  - (a) "CAO" means the Chief Administrative Officer of the Rural Municipality of Whitemouth or his/her designate.
  - (b) "Emergency" means any occurrence or set of circumstances involving actual or imminent trauma or property damage necessitating immediate action.
  - (c) "Engine retarder brakes" means a system which switches the diesel engine to a compression mode creating back pressure in the engine's exhaust system and increasing resistance to the release of air expelled from the cylinders thus absorbing some of the energy of the of the truck thus slowing the rotation of the drive wheels.
  - (d) "Engine Retarder Brake Prohibited Zone" means an area designated by the Council of the Rural Municipality of Whitemouth.
  - (e) "Fire Chief" means the Fire Chief of any Fire Department of the Rural Municipality of Whitemouth as appointed from time to time.
  - (f) "Municipality" means the Rural Municipality of Whitemouth.
  - (g) "Nuisance Noise" means any loud, unnecessary or unusual sound or any sound whatsoever which annoys, disturbs, injures, endangers or distracts from the comfort, repose, health, peace and/or safety of any reasonable person as determined by an Officer.

- (h) "Officer" means any member of the Royal Canadian Mounted Police Force and any other police officer, police constable, constable, designated officer or other person appointed and employed by the Rural Municipality of Whitemouth for preservation and maintenance of the public peace.
- (i) "Owner" means the person or persons or the corporation shown as the registered owner on the latest revised assessment rolls of the Municipality.
- (j) "Occupant" means and includes an owner, lessee, tenant, sub-tenant, under-tenant and respective assigns, heirs and legal representative, and includes any person, business or corporation exercising physical control or possession of real property or premises with or without the consent of the owner.
- (k) "Residential Area" means the residential zones as defined in the Municipal Zoning By-Law.

2. **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 **11:00 p.m. and 7:00 a.m.** but not limited to;

- (a) The sound caused by the lighting and/or setting off of any explosive noise making device, including a firecracker or other fireworks.
- (b) No person owning, possessing or harboring any animal or bird shall allow it to create a Nuisance Noise.
- (c) The sound from excavation or construction work of any nature.
- (d) The sound resulting from the use and/or operation of any power tool, motorized lawn mower, snow clearing device, chain saw, leaf blower, motorized garden tiller, weed/grass trimmer, motorized toy, or similar device used outdoors.
- (e) 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 re-producing, 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 which projects noise or sound into any street or other public place at any time.

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

- (f) Any loud, offensive, abusive, obscene or insulting language or singing or shouting or speaking in a boisterous manner.
- (g) The sound coming from any musical instrument or loudspeaker, when as determined by an Officer is audible from a distance of thirty (30) meters or more.
- (h) Operate, apply or otherwise use an engine retarder brake on any vehicle driven within an area designated by Council as a Engine Retarder Brake Prohibited Zone within the Rural Municipality of Whitemouth, except in an emergency where it is necessary in the circumstances to do so.

The property/owner, lessee, occupier or Person in control of a Premises is responsible for Nuisance Noise created by invitees, guests or other persons on the Premises in the same manner as the person actually creating the Nuisance Noise unless the property owner, lessee, occupier or person in control of the Premises establishes that he exercised due diligence in a bona fide effort to Control and abate such Nuisance Noise.

**3. PERMITTED NOISES** The provisions of this By-Law shall not apply to;

- (a) Sound coming from any concert, circus, fair, parade, street festival, block party, wedding or similar activity authorized by a Resolution of Council.
- (b) Any farmer or agent or employee of a farmer operating farm equipment during the normal course of farming operation.
- (c) Any agent, employee, servant or contractor of the Municipality performing services for or on behalf of the Municipality.
- (d) Sound coming from the clearing of snow from private parking lots and driveways.
- (e) Sound coming from the Fire Hall alarm, or the sirens of any emergency vehicle while engaged in providing Emergency work or responding to an Emergency or during testing of an Emergency warning siren.
- (f) Sound coming from the sound system of recognized recreational facilities with the Municipality during special events.
- (g) The use of any bell, chime or similar sound for the purpose of calling persons to church and/or similar school services.
- (h) The lighting and setting off of fireworks, by certified persons, as a public display or celebration with the approval and watch of the Fire Chief.
- (i) Aircraft or airports.
- (j) Any activity, work or undertaking which would otherwise be prohibited by this By-law where a noise nuisance permit or permissions has been issued by a Resolution of Council.

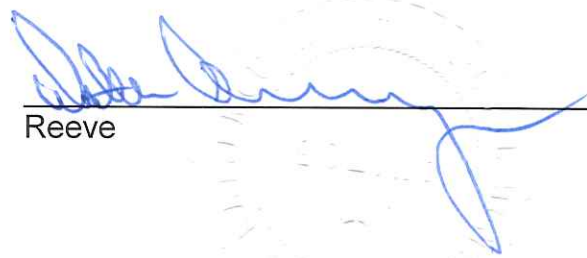
**4. CONTRAVENTION AND FINES** Any person who contravenes this By-Law shall be subject to fines as set out in **Schedule A**.

**5. REPEAL**

- (a) This By-law repeals By-Law No. 583/12 and all amendments.
- (b) The repeal of the by-law 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) And 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;
  - ii) nor 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;

- iii) nor any office, appointment, commission, salary, allowance, security, duty, or any matter or thing appertaining thereto at the time of such repeal;
- iv) nor shall any such repeal defeat, disturb, invalidate, or prejudicially affect any other matter or thing whatsoever had, done, completed, existing or pending at the time of such repeal.

**DONE AND PASSED** by the Council of the Rural Municipality of Whitemouth in Council duly assembled this 12<sup>th</sup> day of February, A.D. 2019.



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Reeve



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Chief Administrative Officer

Read a first time this 22<sup>nd</sup> day of January, A.D. 2019  
Read a second time this 22<sup>nd</sup> day of January, A.D. 2019  
Read a third time this 12<sup>th</sup> day of February, A.D. 2019

**Schedule "A"**  
**Bylaw No. 687/19**

Fines for the regulation of Noise Bylaw

Provision of By-law	Description of Offence	Set Fine for 1 <sup>st</sup> Offense	Set Fine for 2 <sup>nd</sup> Offense	Set Fine for 3 <sup>rd</sup> Offense
2 (a)	Make, continue to cause or allow nuisance noise caused by the lightning/and/or setting off of any explosive noise making device, including a firecracker or other fireworks between the hours of 11:00 pm and 7:00 am	\$150	\$500	\$1000
2 (b)	Allow nuisance noise of any animal or bird between the hours of 11:00 pm and 7:00 am	\$150	\$500	\$1000
2 (c)	Make, continue to cause or allow nuisance noise from the sound from excavation or construction work between the hours of 11:00 pm and 7:00 am	\$150	\$500	\$1000
2 (d)	Make, continue to cause or allow nuisance noise from the use and/or operation of any power tool as further described in this clause between the hours of 11:00 pm and 7:00 am	\$150	\$500	\$1000
2 (e)	Make, continue to cause or allow nuisance noise created by the use and operation of any drum, horn, bell, radio or mechanical loudspeaker, as further described in this clause between the hours of 11:00 pm and 7:00 am	\$150	\$500	\$1000
2(f)	Make, continue to cause or allow nuisance noise by loud, offensive, abusive, obscene or insulting language, singing, shouting or speaking in a boisterous manner regardless of hour of the day	\$150	\$500	\$1000
2(g)	Make, continue to cause or allow nuisance noise caused by any musical instrument or loudspeaker audible from a distance of 30 meters or more regardless of hour of the day	\$150	\$500	\$1000
2(h)	Operate, apply or otherwise use Engine Retarder Brake within an Engine Retarder Brake Prohibited Area	\$150	\$500	\$1000