

CITY OF MORDEN
By-law No. 11-2017

BEING a By-law of the City of Morden to regulate unnecessary and harmful noise within the City of Morden.

WHEREAS Subsection 232(1) of *The Municipal Act*, C.C.S.M., c. M225 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;

AND WHEREAS Subsection 233(1) of *The Municipal Act*, C.C.S.M., c. M225 provides in part as follows:

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, odours, unsightly property, fumes and vibrations.

AND WHEREAS it is deemed advisable to exercise the powers set out in the said Sections of *The Municipal Act* as excessive sound is a serious hazard to the public health and welfare, safety and quality of life and the public has a right to and should be ensured an environment free from excessive sound that may be prejudicial to their health or welfare or safety or diminish the quality of life.

NOW THEREFORE be it resolved as a By-law of the City of Morden and it is hereby enacted as follows:

1. **THAT** this By-law be referred to as the "City of Morden Noise Control By-law";
2. **THAT** all terminology used in this By-law not defined below, shall be in conformance with current publications of the Canadian Standards Association (CSA) and the American National Standards Institute (ANSI) or respective successor body.

(a) **City** - means the City of Morden.

(b) Commercial, Industrial or Residential District - means the various zoning districts as defined in the By-laws relating to Zoning and the development Plan of the City of Morden.

(c) Emergency - means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage threatened or caused by an emergency.

(d) Emergency Work - means work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

(e) Motor Vehicle - means an automobile, motorcycle, truck and any other vehicle propelled or driven otherwise than by muscular power.

(f) Motorized Recreational Vehicles - means all recreational motorized vehicles whether or not duly licensed and registered, including, but not limited to, commercial or non-commercial racing vehicles, motorcycles, go-carts, snow-mobiles, trail bikes, amphibious craft and motor boats.

(g) Noise Nuisance - means any unreasonably loud or unusual sound or any sounds which are likely to, or annoy, injure, or disturb the health, peace, or safety of any person.

(h) Sound - means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarification of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

3. THAT except to the extent permitted by this By-law, no person shall make, continue, or cause to be made or continued, any noise nuisance, and specifically the following acts, among others, and the causing thereof, are declared to be in violation of this By-law, namely:

(a) No person owning or possessing or harbouring any animal or bird shall allow it to create a noise nuisance.

(b) Except to the extent, as may hereinafter be permitted by this By-law, no person shall operate or permit the operation of any power or manual equipment, machinery, device or motor vehicle in such a manner as to create a noise nuisance.

(c)(i) No person shall operate or permit the operation of any mechanical powered saw, drill, sander, grinder, lawn or garden tool, snowblower, or similar device used outdoors, to create a noise nuisance at the point of reception at any time except between the hours of

6:00 A.M. and 11:00 P.M. on weekdays and Saturdays and between the hours of 10:00 A.M. and 11:00 P.M. on Sundays.

(ii) Notwithstanding clause (i) and (ii) above, Minnewasta Golf & Country Club Ltd. shall be authorized to operate grass cutting equipment at any time between the hours of 6:00 A.M. and 11:00 P.M.

(d) No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, loudspeaker, public address system, sound amplifier or similar device in a residential district which produces, reproduces or amplifies sound in such a manner as to create a noise nuisance at a point of reception at any time.

(e) No person shall operate, play, or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, loudspeaker, public address system, sound amplifier or similar device in a commercial district which produces, reproduces or amplifies sound in such a manner as to create a noise nuisance at a point of reception, unless used for purposes of advertising some patriotic or other public object and unless a permit as been issued by the City of Morden or where a permit has been issued under the Liquor Control Act.

(f) No person shall by shouting, or otherwise, whether by amplified sound or other, cause a noise nuisance within the City.

(g) No person shall repair, rebuild, modify or test any motor vehicle, motorcycle, motor boat, outboard motor or motorized recreational vehicle in such a manner as to create a noise nuisance at a point of reception between the hours of 11:00 P.M. and 7:00 A.M. of the following day on weekdays and Saturdays and at no time on Sundays.

4. THAT exceptions to the provisions of this By-law shall not apply to the following:

(a) the existence of an emergency or the emission of sound in the performance of emergency work unless such sound is clearly of a longer duration, or nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

(b) Work performed in respect of the maintenance, construction or demolition of an public right-of-way or public space.

(c) Any military or other bands or any parade, operating under written permit from the City of Morden.

(d) Any vehicle of the police or fire department or any ambulance or any public service or emergency vehicle while answering a call.

(e) The ringing of church or school bells.

(f) The using or operating of sound producing devices during the month of December in any year for the rendering of Christmas carols.

(g) Concerts, circuses, fairs, parades or any like activity where a permit as been issued by the City of Morden.

(h) Any activity, work or undertaking which would otherwise be prohibited by this By-law where a permit as been issued by the City of Morden.

(i) Aircraft.

5. THAT this By-law shall be administered by the Morden Police Department or a By-law Enforcement Officer appointed by the City of Morden.

6. THAT every person or corporation in breach of any provision of this By-law, shall receive a penalty notice provided in Schedule A in accordance with the Enforcement By-law.

7. THAT wherever the provisions of any By-law, Zoning By-law and amendments thereto or impose overlapping or contradictory regulations over the control or prohibition of noise, or contain any restrictions covering any of the same subject matter contained herein, the most restrictive standard shall apply.

8. THAT severability if any provision of this By-law is held to be invalid by any Court of competent jurisdiction, the remaining provisions of the By-law shall not be invalidated.

9. THAT this By-law shall come into force upon the passing thereof.

10. THAT By-law No. 08-2013 is hereby repealed.

11. THAT the repeal of the by-law(s) in the last preceding section mentioned shall not revive any by-law or any provision of any by-law repealed by it, nor shall the said repeal prevent the effect of any saving clause in the said by-law or the application of the said by-law 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.

12. THAT the repeal of the said by-law(s) should not affect:

(a) 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

(b) 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

(c) 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

(d) any office, appointment, commission, salary, allowance, security, duty, or any matter or thing appertaining thereto at the time of such repeal; or

(e) any bond, note, debenture, debt, or other obligation made, executed, or entered into by the Municipality at the time of such repeal.

13. THAT the repeal of the said by-law(s) shall also not defeat, disturb, invalidate, or prejudicially affect any matter or thing whatsoever had, done, completed, existing.

DONE AND PASSED by the Council of the City of Morden, assembled at the Council Chambers of the City of Morden, in the Province of Manitoba this 26th day of June, A.D. 2017.

CITY OF MORDEN

Ken Wiebe

Mayor

John Scarce

City Manager

Read a first time this	29th	day of	May	A.D. 2017
Read a second time this	26th	day of	June	A.D. 2017
Read a third time this	26th	day of	June	A.D. 2017

City of Morden
Schedule A to By-law 11-2017

Fines applicable as first, second and subsequent offences to clauses:

3 (a) Animal in your care creating a noise nuisance	\$150	\$300	\$450
3 (b) (c) Operating or testing power or manual equipment, machinery or motor vehicle outside allowable hours	\$150	\$300	\$450
3 (f) Creating a noise nuisance by shouting or amplified sound	\$150	\$300	\$450