

**MUNICIPALITY OF KILLARNEY-TURTLE MOUNTAIN
BY-LAW 1-2022**

BEING a by-law respecting noise control within the boundaries of Zoning Map 2, under Appendix "A" of By-Law No. 2-2016 in the Municipality of Killarney-Turtle Mountain.

WHEREAS Subsection 232(1) of the *Municipal Act S.M. 1996 c. 58* provides 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";

NOW THEREFORE BE IT RESOLVED THAT the Council of the Municipality of Killarney-Turtle Mountain, in open Council assembled, enacts as follows:

For the purpose of this by-law the following definitions shall apply:

A. DEFINITIONS

- 1) By-Law Enforcement Officer or Designate - shall mean the authorized By-Law Enforcement Officer of The Municipality of Killarney-Turtle Mountain or any person authorized by resolution of Council to enforce this by-law and the Royal Canadian Mounted Police.
- 2) Construction - means any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for, or of public or private rights-of-way, structures, utilities, or similar property.
- 3) Demolition – means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.
- 4) Emergency - means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.
- 5) Emergency work - means any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.
- 6) Equipment - includes any internal combustion engine or anything powered by an internal combustion engine and any other machine which may disturb the peace and quiet in an unreasonable manner when operated.
- 7) Motor Vehicle - means an automobile, motorcycle, truck, and any other vehicle propelled or driven otherwise than by muscular power.
- 8) 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, snowmobiles, trail bikes, amphibious craft and motorboats.
- 9) Noise Nuisance - means any loud, unnecessary, or unusual sound or any sound whatsoever which either annoys, disturbs, injures, endangers or distracts from the comfort, repose, health, peace or safety of any person.
- 10) Owner - includes:
 - i) the owner at law,
 - ii) the registered owner when reference is made to a vehicle registered under The Highway Traffic Act of Manitoba or any provincial or state legislation similar to the Highway Traffic Act; and
 - iii) a person, who is renting, leasing, or otherwise authorized by the owner of same to have possession or control of any equipment.

- 11) Person - means any individual, firm, partnership, association, corporation, company, or organization of any kind.
- 12) Point of Reception - means any point on any lands or premises where sound, originating from other lands or premises, is received.
- 13) Powered Model Vehicle - means any self-propelled airborne, waterborne, or land-borne airplane, vessel, or vehicle, which is not designed to carry a person including, but not limited to, any model airplane, boat, car, or rocket.
- 14) Public Right-of-Way - means any street, avenue, lane, highway, boulevard, sidewalk, park, square, bridge, thorough-fare, or similar place, which is owned or controlled by a governmental entity.
- 15) Public Space - means any real property or structures thereon which are owned or controlled by a governmental entity.
- 16) Urban Area – includes all zones under Zoning By-Law No. 2-2016 as per Appendix “A”, Zoning Map 2 in the Municipality of Killarney-Turtle Mountain.
- 17) Zoning – means the various zoning districts as defined in By-Laws relating to zoning and planning schemes of the Municipality of Killarney-Turtle Mountain such as Commercial, Industrial, or Residential Districts.

B. PROHIBITED NOISES

- 1) 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.
- 2) 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 loudspeaker, when audible from a distance of thirty meters (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 recreational

vehicle 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.

- (i) The sound created by the use or operation of any drum, horn, bell, radio, or mechanical loudspeaker, or other instrument or device of 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.
- (ii) Any loud, blasphemous, abusive, or insulting language or singing or shouting in a boisterous manner.
- (iii) Any loud, excessive, or continual barking, howling, wailing, caterwauling, or other sound caused by any domestic animal.

C. PERMITTED NOISES:

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

- 1) 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.
- 2) Sound emanating from any parade authorized by the RCMP, and including all military parades;
- 3) 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;
- 4) Snow clearing and road maintenance vehicles operated by the Municipality, the Province of Manitoba Department of Highways, or their designated and individuals clearing commercial parking lots;
- 5) Sound emanating from the Fire Hall alarms, 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;
- 6) Sound generated by emergency work of any nature when such work is authorized by the RCMP or Fire Chief;
- 7) The use of any bell, chime, or similar sound for the purpose of calling persons to church and/or school services.

D. ADMINISTRATION

This By-Law shall be administered in and for The Municipality of Killarney-Turtle Mountain by the RCMP or a By-Law Enforcement Officer appointed by the Municipality.

E. PENALTIES AND ENFORCEMENT

- 1) Any person who contravenes this by-law, any owner(s) of an animal that creates a noise nuisance in contravention of this by-law and any owner(s) of equipment, motor vehicle, motorized recreational vehicles, powered model vehicle operated in contravention of this by-law, commits an offence and is liable on conviction to payment of a fine of not less than \$100.00 or more than \$500.00 on each such conviction.
- 2) Where a contravention of this by-law continues for more than one day, the person and owner(s) is guilty of a separate offence for each day it continues.
- 3) In addition to any prosecution for a contravention of this by-law, where the By-Law Enforcement Officer or Designate observes a contravention of it in progress, the Officer or Designate may seize and impound any animal or equipment, motor vehicle, motorized recreational vehicles, powered model vehicle involved in the contravention. In such an event, the impounded item will remain impounded until:
 - i. the owner reimburses the Municipality for the actual cost of seizure and impoundment and for storage costs of \$25 per day; and
 - ii. any prosecution hereunder has been finally concluded and any fine imposed as a result has been paid in full or Council has determined that it will not prosecute for this specific contravention of this by-law.
- 4) Where there is more than one owner of the animal or equipment, motor vehicle, motorized recreational vehicles, powered model vehicle each owner is jointly and severally liable for all amounts due under this by law.
- 5) Where any person or owner liable to pay money to the Municipality as a result of a contravention of this by-law owns an interest in land within the Municipality, the money owing may be collected in any manner in which a tax may be collected or enforced under The Municipal Act.

F. REPEAL AND ENACTMENT

- 1) By-Law 18-1990 is hereby repealed.
- 2) 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.
- 3) 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, or thing had, done, made, acquired, established, or existing 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 Municipality at the time of such repeal.

- 4) 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.

This by-law shall come into full force and take effect upon the passage thereof.

DONE AND PASSED in Council assembled at the Council Chambers of the Municipality of Killarney-Turtle Mountain, in the Province of Manitoba, this 9th day of February, A.D., 2022.

MUNICIPALITY OF KILLARNEY-TURTLE MOUNTAIN



Mayor, Merv Tweed

Chief Administrative Officer

Karen Patterson

Read a first time this 26th day of January, 2022

Read a second time this 9th day of February, 2022

Read a third time this 9th day of February, 2022