



## THE RURAL MUNICIPALITY OF MACDONALD

### BY-LAW NO. 8/18

BEING A BY-LAW OF THE RURAL MUNICIPALITY OF MACDONALD to regulate and prohibit nuisance noises in the Municipality.

WHEREAS Sections 232 and 233 of *The Municipal Act* provides in parts 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;
- (j) the sale and use of firecrackers and other fireworks, the use of rifles, guns, and other firearms, and the use of bows and arrows and other devices;
- (o) the enforcement of by-laws.

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 excessive sound is a serious hazard to public health and welfare, safety and quality of life;

AND WHEREAS people have the right to and should be ensured an environment free from excessive noise;

AND WHEREAS technology now exists by which excessive noise may be substantially abated;

NOW THEREFORE, the Council of the Rural Municipality of Macdonald, in Council assembled, enacts as follows:

#### 1. **Title**

This By-Law may be referred to as “The Rural Municipality of Macdonald Noise By-Law”.

#### 2. **Definitions**

Unless otherwise expressly provided or unless the context otherwise requires, words and expressions in this By-Law have the same mean-

ing as the same words and expressions in *The Municipal Act*.

Wherever the singular or masculine are used throughout this By-Law, the same shall be construed as meaning the plural or feminine or neutral, where the context so requires.

- (a) “Designated Officer” means a by-law enforcement officer, or other official appointed by Council, from time to time, to enforce this by-law, or, in the absence of such an appointment, the Chief Administrative Officer of the Municipality is, by this by-law, appointed as the designated officer.
- (b) “Drone” means a motorized model or unmanned craft generally remotely or computer controlled.
- (c) “Emergency” means any occurrence or set of circumstances including actual or imminent physical trauma or property damage which demands immediate action.
- (d) “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.
- (e) “General Development Zone” means the general development zones as defined in the Municipality’s Zoning By-Law.
- (f) “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.
- (g) “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 Municipality for preservation and maintenance of the public peace.
- (h) “Occupier” means occupier as defined in *The Municipal Assessment Act*.
- (i) “Owner” means the person or persons or the corporation shown as the registered owner according to the records of the Municipality.
- (j) “Person” means any individual and includes firm, partnership, association, corporation, company or group of persons.
- (k) “Point of Reception” means any point on any lands or premises where sound, originating from other lands or premises is received.
- (l) “Premises” means a building or buildings including the associated land.
- (m) “Residential Zone” means the residential zones as defined in the Municipality’s Zoning By-Law.

### **3. Prohibited Noises between the Hours of 11:00 p.m. to 7:00 a.m.**

No person shall make, continue to cause, or allow to be made or continued, by whatever means, any Nuisance Noise except where other

wise permitted by this By-Law.

The following sounds are a Nuisance Noise and prohibited between the hours of 11:00 p.m. of any day and 7:00 a.m. of the next following day:

- (a) The sound caused by the lighting and/or setting off of any explosive noise making device, including a firecracker or other fireworks.
- (b) The sound emanating from excavation or construction work of any nature.
- (c) The sound resulting from the use and/or operation of any power tool, motorized lawn mower, snow clearing device, chainsaw, leaf blower, motorized garden tiller, weed/grass trimmer or similar device used outdoors in any Residential and General Development Zones.
- (d) 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.

#### **4. Prohibited Noises Anytime**

The following sounds are a Nuisance Noise and prohibited regardless of the hour:

- (a) Any loud, blasphemous, abusive, obscene or insulting language or singing or shouting or speaking in a boisterous manner.
- (b) The sound emanating from any musical instrument or loudspeaker, audible from a distance of thirty (30) metres or more.
- (c) The excessive sound emanating from any motorized toy, drone, recreational vehicle or vehicle.
- (d) The use of engine retarder brakes ("Jake Brakes") shall be prohibited within the following limits of the Rural Municipality of Macdonald and shown on Schedule "A" attached hereto and forming part of this By-Law:
  - (i) All that portion of P.T.H. No. 3 in the vicinity of Oak Bluff lying south westerly of the intersection of P.T.H. No. 3 and P.T.H. No. 2 a distance of 500 metres.
  - (ii) All that portion of P.T.H. No. 2 in the vicinity of Oak Bluff beginning at the point commencing approximately 610 metres west from the intersection of P.T.H. No. 2 and P.T.H. No. 3;
  - (iii) All that portion of P.T.H. No. 100 in the vicinity of Oak Bluff beginning at the point 850 metres northwesterly of the point where the centre line of P.T.H. No. 3 crosses the highway
  - (iv) All that portion of P.T.H. No. 100 in the vicinity of Oak Bluff beginning at the at the point 1,650 metres southeasterly of the point where the centre line of P.T.H. No. 3 crosses the highway.
  - (v) All that portion of P.T.H. No. 2 in the vicinity of Starbuck commencing 700 metres SW of the intersection of P.R. No. 332 &

P.T.H. No. 2 to 300 metres East of the intersection of P.R. No. 332 and P.T.H. No. 2; and

- (vi) All that portion of P.R. No. 332 lying south of the intersection of P.R. No. 332 & P.T.H. No. 2 a distance of 700 metres;

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.

## **5. Permitted Noises**

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 Designated Officer, that:
  - (i) The sound intensity level is not unreasonable, taking into consideration the type of activity allowed by the applicable land use provisions,
  - (ii) All reasonable steps have been taken by the owner, lessee, occupier or person in control of the property from which the sound is emanating in order to reduce the intensity.
- (b) Sound emanating from any concert, circus, fair, parade, street festival, block party or similar activity authorized by a resolution of Council.
- (c) Noises associated with normal farming practices or operation of agricultural machinery/equipment being used for agricultural purposes.
- (d) Snow clearing, road maintenance and road construction vehicles and equipment operated by the Municipality and/or the Province of Manitoba or their agents and/or contractors.
- (e) Grass and field of play maintenance vehicles and equipment operated by the Municipality and/or Province of Manitoba or their agents and/or contractors.
- (f) Sound emanating from the clearing of snow from private parking lots and driveways.
- (g) Sound emanating from the Fire Hall alarm, or the sirens of any emergency vehicle while engaged in providing an emergency response or during testing of an emergency warning siren.
- (h) Sound emanating from the sound system of sports complex, arena, curling rink and community centres.
- (i) The use of any bell, chime or similar sound for the purpose of calling persons to church and/or similar school services.
- (j) The lighting and setting off of fireworks, by certified persons, as a public display or celebration.

6. **Contravention and Fines**

A person who contravenes this by-law is guilty of an offence and is liable on summary conviction to a fine of not more than \$1000.00. Any costs associated with or resulting from enforcing this By-Law are in addition to any such fine, and are an amount owing to the Municipality and may be collected in any manner in which a tax may be collected or enforced under The Municipal Act.

7. **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.

8. By-Law No. 7/18 be and is hereby repealed.

DONE AND PASSED by the Council of the Rural Municipality of Macdonald, in Council duly assembled, at Sanford, Manitoba this 25<sup>th</sup> day of September A.D., 2018.

**THE RURAL MUNICIPALITY OF MACDONALD**

*Original Signed by*

*“B. Erb”*

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Brad Erb  
Reeve

*“D. Hrehirchuk”*

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Daryl Hrehirchuk, CMMA  
Chief Administrative Officer

*Read a First time this 11<sup>th</sup> day of September A.D., 2018*  
*Read a Second time this 25<sup>th</sup> day of September A.D., 2018*  
*Read a Third time this 25<sup>th</sup> day of September A.D., 2018*



Schedule A

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Legend

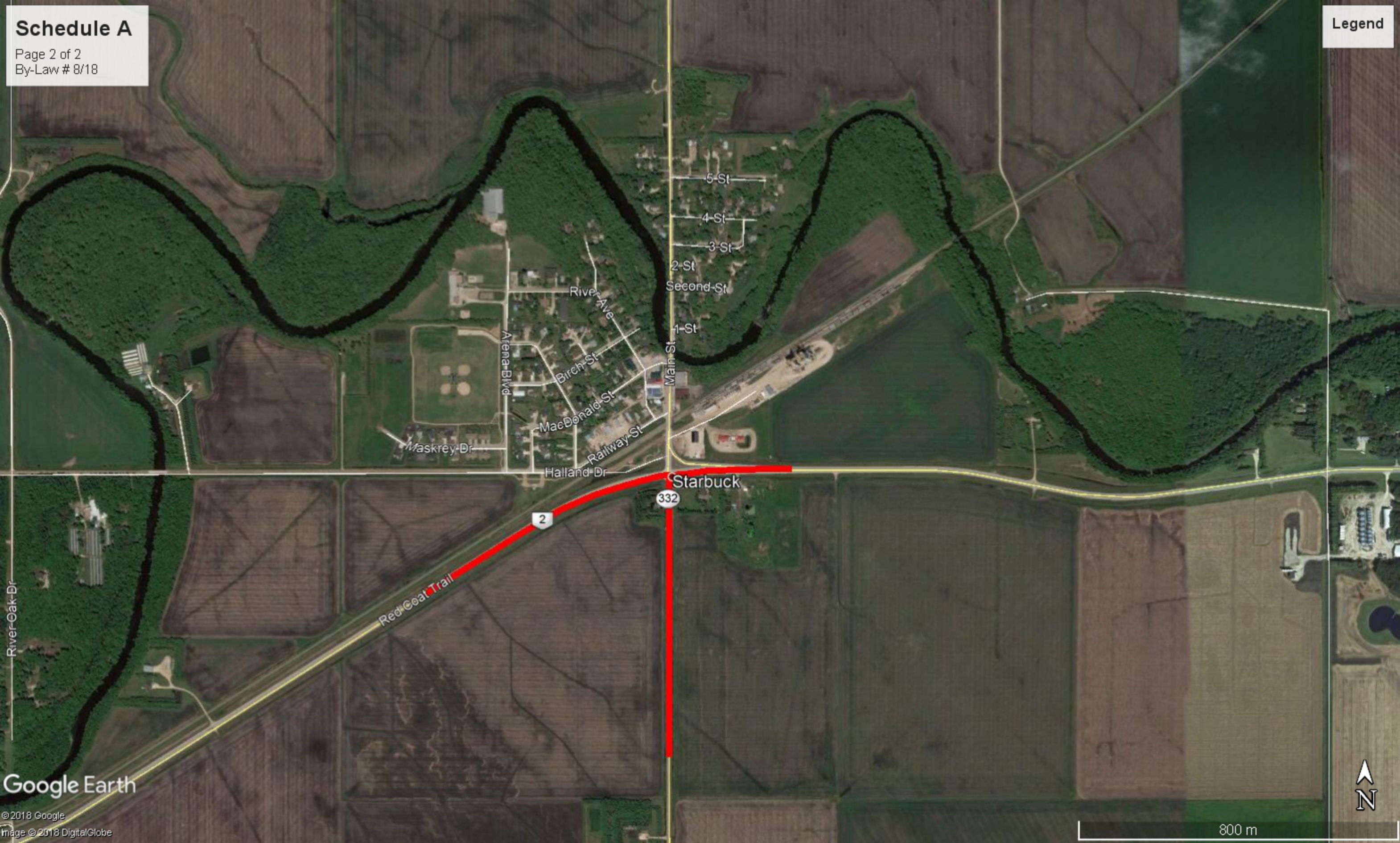




Schedule A

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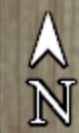
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Google Earth

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