

RURAL MUNICIPALITY OF HEADINGLEY

BY-LAW NO. 2-2023

**A BY-LAW OF THE RURAL MUNICIPALITY OF HEADINGLEY
TO REGULATE NOISE**

WHEREAS Sections 232 and 233 of *The Municipal Act* 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;
- (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, odors, unsightly property, fumes and vibrations.

AND WHEREAS excessive sound is a serious hazard to the public health and welfare, safety and quality of life.

AND WHEREAS people have the right to enjoy an environment free from excessive noise.

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

NOW THEREFORE the Rural Municipality (RM) of Headingley, in Council assembled, enacts as follows:

1. This By-law may be referred to as the RM OF HEADINGLEY NOISE BY-LAW.
2. DEFINITIONS:
 - a) **“dBa”** stands for Weighted Sound Level, which means the sound pressure level in decibels measured on a Precision Sound Level Meter using the “A” weighting network and slow meter response
 - b) **“Ambient Sound Level”** means the dBa at the property line of a Premises, excluding the noise or sound which is the subject of an investigation for potential contravention of this By-law.
 - c) **“Decibel (dB)”** means a unit for measuring the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of pressure of sound measured to the reference pressure, which is 20 micropascals.
 - d) **“Engine Retarder Brake”** means a device used in trucks and semi-trailer units to slow or brake the vehicle by means of closing the exhaust valves on the engines, or similar device.
 - e) **“Noise Nuisance”** means any sound that is reasonably likely to disturb the peace of others.
 - f) **“Non-Residential Zoned Properties”** means Premises or Property in areas zoned as Commercial, Industrial, Rural, or Community Service Zoning Districts under the Zoning By-law.

g) **"Occupy"** means to occupy Property or any Premises as a lessee, licensee, invitee, permittee, homesteader, or squatter and includes a party claiming through or under such person;

h) **"Premises"** means the area contained within the boundaries of any lot and includes any building situated within such boundaries except where any building contains more than one dwelling unit, and in such case, such dwelling unit, the common area of such building and the land surrounding the building within the boundaries of the lots shall be deemed to be separate premises.

i) **"Precision Sound Level Meter"** means as an instrument used to measure sound levels and specified as Type 1 or Type II Precision Sound Level Meter in CSA specification, Z107.1-1973, or the American National Standards Institute specification, ANSI SI.4-1971 (R1976), as amended from time to time.

j) **"Property"** means real property, together with all improvements which have been affixed or brought on to the land.

k) **"Residential Zoned Properties"** means Premises or Property in an area zoned as a Residential Zoning District under the Zoning By-law.

l) **"Zoning By-Law"** means the RM of Headingley Zoning By-law, as amended from time to time.

3. **PROHIBITED NOISE:**

3.1 Except as otherwise permitted in this By-law, no person shall on any Residential Zoned Properties or Non-Residential Zoned Properties within 150 meters of Residential Zoned Properties, or properties in adjacent municipalities including the City of Winnipeg, zoned for residential purposes, cause or permit any Noise Nuisance.

4. **CRITERIA:**

4.1 The following criteria may be considered in determining if a sound is reasonably likely to create a Noise Nuisance:

- a) type, volume, and duration of the sound;
- b) time of the day and day of the week;
- c) nature and use of the surrounding area;
- d) decibel level, if measured; and
- e) any other relevant factor.

5. **CONSTRUCTION NOISE:**

5.1 No person shall cause or permit any noise making construction activity on Residential Zoned Properties the person owns or occupies on any Saturday, Sunday or Holiday before 9 a.m. or after 6 p.m..

6. **GARBAGE COLLECTION:**

6.1 No person shall collect, cause or permit the collection of garbage with a motor vehicle within the Residential Zoned Properties before 6:30 a.m. or after 10:00 p.m..

7. **ENGINE RETARDER BRAKES**

7.1 The use of Engine Retarder Brakes ("Jake Brakes") shall be expressly prohibited within the following limits of the RM of Headingley and shown on Schedule "A" attached hereto and forming part of this By-Law:

- (i) All that portion of PR 241 west of PTH 100 to PR 334 distance of 6.0 kilometres, PR 334 north of PR 427 to PTH 1 a distance of 4.6 kilometres, and PTH 1 from Camp Manitou Road to 500 metres west of Bobiche Street, a distance of 6.0 kilometres.

8. DAYTIME DECIBEL LIMIT – RESIDENTIAL ZONED PROPERTIES:

8.1 No person shall, between 7 a.m. and 11:00 p.m., cause or permit any sound exceeding 60 dBa, as measured at the property line of Residential Zoned Properties or on Non-Residential Zoned Properties within 100 metres of Residential Zoned Properties.

8.2 This section does not apply to sounds of up to:

- a) 65 dBa lasting a total period of time not exceeding two hours in any one day;
- b) 70 dBa lasting a total period of time not exceeding one hour in any one day;
- c) 75 dBa lasting a total period of time not exceeding 30 minutes in any one day;
- d) 80 dBa lasting a total period of time not exceeding 15 minutes in any one day

9. OVERNIGHT DECIBEL LIMIT – RESIDENTIAL ZONED PROPERTIES:

9.1 No person shall, before 7 a.m. or after 11 p.m., cause or permit any sound exceeding 50 dBa, as measured at the property line of Residential Zoned Properties or on Non-Residential Zoned Properties within 150 metres of Residential Zoned Properties.

10. DECIBEL LIMIT – NON-RESIDENTIAL ZONED PROPERTIES:

10.1 No person shall cause or permit any sound exceeding 70 dBa, as measured at the property line of Non-Residential Zoned Properties.

10.2 This section does not apply to sounds of up to:

- a) 75 dBa lasting a total period of time not exceeding two hours in any one day;
- b) 80 dBa lasting a total period of time not exceeding one hour in any one day.

11. For the purposes of Sections 8, 9 and 10, measurements of sound levels shall take Ambient Sound Level into account.

12. EXCEPTIONS:

12.1 The provisions of this By-law shall not apply to:

- a) the sound of emergency sirens and signals used during an emergency by an ambulance, fire vehicle or police vehicle;
- b) the sound produced in course of constructing, maintaining, rehabilitating or otherwise working on a street or property owned by the Municipality;
- c) the sound of an activity, work or undertaking performed by or through the Municipality in respect of public services, facilities or installations;
- d) the use of any equipment for the repair or maintenance of any public and private utilities including the public and private utilities operated by Manitoba Hydro, MTS, etc.,
- e) the ringing of bells in places of worship, religious establishments and schools;

- f) the moderate use of musical instruments to call attention to an opportunity to contribute to a collection made for a charitable undertaking ;
- g) the playing of a band, the sounding of a steam whistle, the sounding of motor vehicles' horns or the use of sound amplification equipment used in connection with any parade;
- h) the moderate playing of musical instruments appropriate to any religious street service;
- i) the sounding of factory whistles and similar devices at normal appropriate times;
- j) 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 any other community space in connection with any public election meeting, public celebration, or other lawful public gathering of a similar nature;
- k) in emergency or unique situations such as power outages on a limited basis; or
- l) the making of sound in accordance with a permit issued by the Municipality under section 14.

13. PENALTY:

13.1 Every person who contravenes, or refuses, omits, or fails to obey or observe any provision of this By-law is guilty of an offence and is liable, on summary conviction to a fine not exceeding \$1,000.00 or to imprisonment for a term not exceeding three months or to both the fine and imprisonment.

13.2 For greater certainty, a person who owns or occupies property is deemed to have permitted any noise that is produced on that property in contravention of this by-law, and is therefore liable to prosecution.

14. EXEMPTION FROM REQUIREMENTS:

14.1 A permit for exemption from any sound level restriction set out in this By-law may be issued by the Municipality on the basis of undue hardship. An application for an exemption shall be made in writing and must include:

- a) the name and address of the applicant;
- b) a description of the source of sound in respect of which the exemption is sought;
- c) the period of time for which the exemption is sought;
- d) the reasons why the exemption should be granted;
- e) any other information required at the time; and
- f) a statement of the steps, if any, planned or presently being taken to bring about compliance.

14.2 The Council of the Municipality may refuse to grant the exemption or may grant the exemption applied for or an exemption of lesser effect, and any exemption granted shall specify the time period during which it is effective and may contain such terms and conditions as the Municipality sees fit. The Municipality may in its sole discretion revoke an exemption on twenty-four hours' written notice to the permit holder, such notice to be delivered personally or by registered mail. An exemption shall be revoked if a permit holder is in default of any condition of a permit.

15. BY-LAW 3-2013

15.1 By-Law 3-2013 of the Rural Municipality of Headingley is hereby repealed upon the coming into effect of this by-law.

DONE AND PASSED by the Council of the Rural Municipality of Headingley, assembled at Headingley, in the Province of Manitoba this 14th day of November, A.D. 2023.

THE RURAL MUNICIPALITY OF HEADINGLEY



Mayor



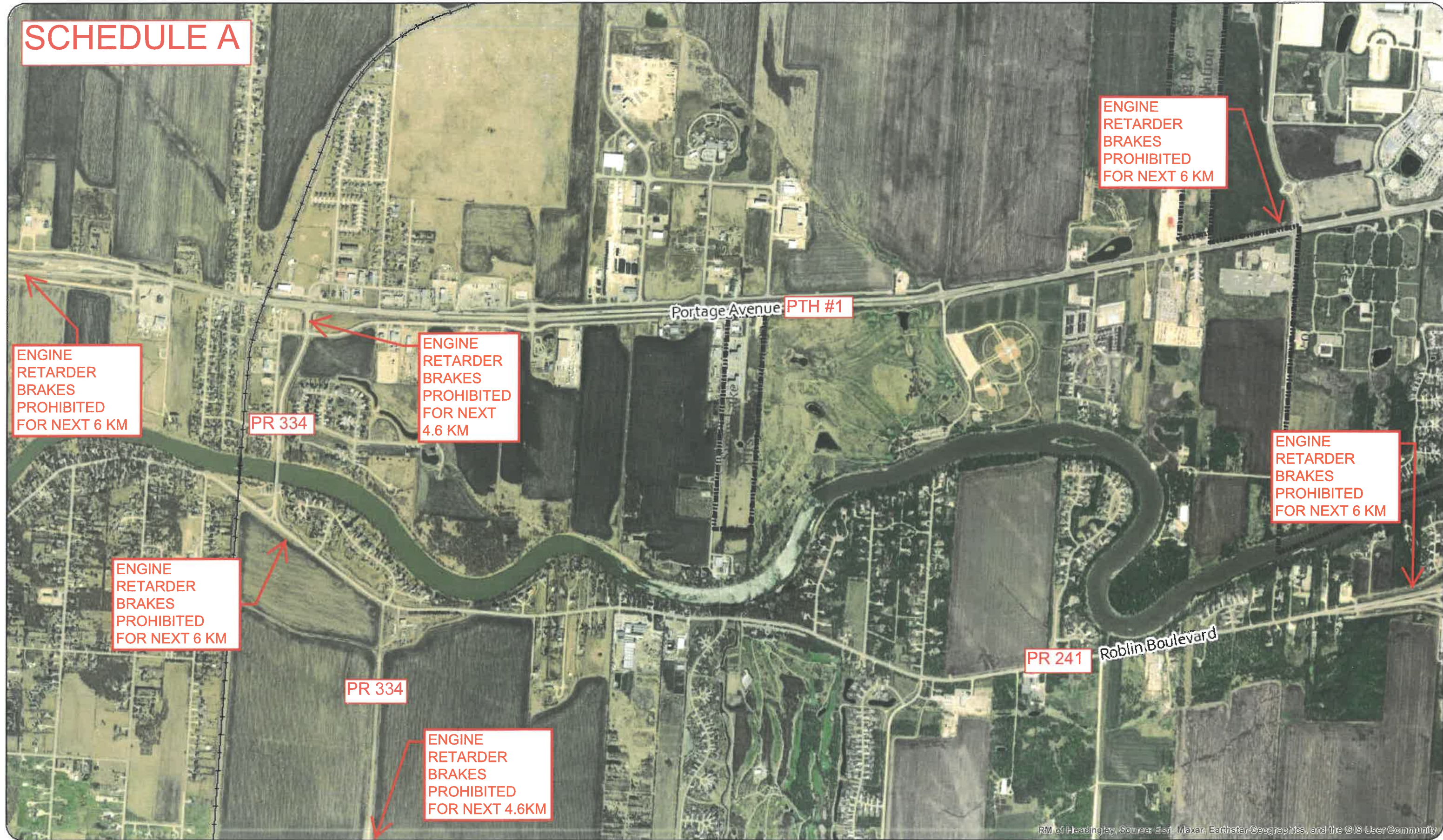
Chief Administrative Officer

Read a First time this 14th day of February, A.D. 2023

Read a Second time this 14th day of November, A.D. 2023

Read a Third and Final time this 14th day of November., A.D. 2023

SCHEDULE A



RM of Headingley, Source: Esri, Maxar, Earthstar, Geographics, and the GIS User Community

R.M of Headingley Map

Date: Feb 8, 2023

