

**TOWN OF CARBERRY**

**BY-LAW NO. 4/2002**

BEING A BY-LAW of the Town of Carberry to replace By-law No. 1803 itself being a by-law to regulate and prohibit noise.

WHEREAS the Town of Carberry by its By-law Number 1803 authorized the regulating and prohibiting of noise liable to disturb or annoy the residents of the Town of Carberry;

NOW THEREFORE the Municipal council of the Town of Carberry, in Council duly assembled, enacts as follows:

1. No person shall make or continue or cause or permit to be made or continued any sound which:
  - (a) is such that it does, or is likely to annoy, inconvenience or disturb persons;
  - (b) cause loss of enjoyment of normal use of property;
  - (c) interferes with the normal conduct of business; or
  - (d) cause damage to property.
2. Applications for a permit for release from the provisions of this by-law on the basis of undue hardship may be issued by council. The application 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 to which 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 that time; and
  - (f) a statement of steps, if any, planned or presently being taken to bring about compliance.

Council, by resolution, may refuse to grant any exemption or may grant the exemption applied for or any 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 Council sees fit.

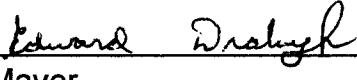
3. In all work undertaken for or on behalf of the Municipality and in all agreements for work performed for the Municipality or for the acquisition of machinery or equipment by the Municipality, it shall be required that due consideration be given to the sound level produced by any such machinery or equipment to be used or acquired.
4. Sound from any source is prohibited if it does not conform to the following restrictions:
  - (a) within the town limits, no person shall operate or allow to be operated after 11:00 p.m. and before 7:00 a.m. Monday to Saturday or after 11:00 p.m. and before 9:00 a.m. Sundays and Holidays, any device, including any tool or item of machinery or equipment which is powered by an electric motor or an internal combustion engine. This clause shall not apply to the above when operated within an enclosed structure.
  - (b) no person shall shout, sing, yell, or indulge in any other noise-producing activity after 11:00 p.m. and before 7:00 a.m. so as to annoy or disturb the quiet, comfort, or repose of any person in the vicinity or any person in any office, dwelling, or hotel or any other type of residence.
  - (c) no person shall cause or permit the keeping of livestock or any other animals in vehicles in any street, alley, or public property, if their cries are audible on any residential property.
  - (d) no person shall allow any animal or bird in their charge to cause frequent or long-continued noise which would disturb any person or persons in the vicinity.

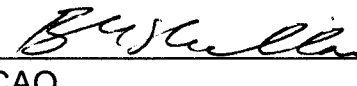
5. No person shall drive, turn, or stop any vehicle in a manner which causes any unnecessary noise from the engine, exhaust system, or the braking system or from the contact of the tires with the roadway.
6. No person shall idle any engine or motor or any motor vehicle or trailer for a continuous period exceeding five minutes while such a vehicle is stationary in a residential or commercial area unless:
  - (a) the vehicle is in an enclosed structure constructed so as to effectively prevent excessive noise emission;
  - (b) the original equipment manufacturer specifically recommends a longer idling period for normal and efficient operation of the motor vehicle;
  - (c) operation of such engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to ready-mix concrete trucks, lift platforms, and refuse compactors;
  - (d) prevailing low temperatures make longer idling periods necessary, immediately after starting the motor or engine; or
  - (e) the vehicle is a bus operated for the transportation of passengers in an approved stopping area.
7. No person shall operate an auditory warning device of any kind on a motor vehicle, except to directly avoid an accident, unless required or specifically permitted by law.
8. No person shall cause or permit the operation of any gas, gasoline, diesel, or other engine or motor, unless it is equipped with a device or devices in good working order and in constant operation to prevent unnecessary noise from the exhaust system of such an engine or motor.
9. The banging, clanging, rattling, or other like sound coming from a vehicle or the load on a vehicle or the trailer of a vehicle or the load on such trailer, is prohibited unless operated on road surfaces which are not in good repair.
10. No person shall excavate or fill land, or construct, demolish, or carry on construction of any type which involves hammering, sawing, or the use of any machine, tool, or equipment capable of creating a sound which may be heard beyond the boundaries of the site on which the activity is being carried out after 11:00 p.m. and before 7:00 a.m. Monday to Saturday, or after 11:00 p.m. and before 9:00 a.m. Sunday and holidays.  
The above restrictions do not apply to agricultural and industrial zoned land unless sound impinges upon residential or commercial zones and exceeds the sound level limits for those zones.
11. It is the intention of the Town of Carberry that each separate provision of this by-law shall be deemed independent of all other provisions herein, and it is further the intention of the Town of Carberry that if any provision of this by-law be declared to be invalid, all other provisions thereof shall remain valid.
12. Exemptions
  - (a) the provisions of this by-law shall not apply to:
    - (i) 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.
    - (ii) Work performed in respect of the maintenance, construction, or demolition of a public right-of-way or public space.
    - (iii) Any military or other bands or any parade, operating under written permit from the Town.
    - (iv) Any vehicle of the police or fire department or any ambulance or any public service or emergency vehicle while answering a call.
    - (v) The ringing of church or school bells.

- (vi) The using or operating of sound producing devices during the month of December in any year for the rendering of Christmas Carols.
  - (vii) Concerts, Circuses, Fairs, Parades or any like activity where a permit has been issued by the Chief Administrative Officer.
  - (viii) Any activity, work, or undertaking which would otherwise be prohibited by this by-law where a permit has been issued by the Chief Administrative Officer.
  - (ix) Railway rolling stock.
  - (x) Licensed liquor establishments or locations with temporary liquor license only during the hours listed on the license.
13. Enforcement
- (a) 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 \$200.00 for first offence, \$400.00 for second offence and \$500.00 on third and subsequent offence.
  - (b) 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.
  - (c) 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 Town for the actual cost of seizure and impoundment and for storage costs of \$25.00 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.
  - (d) Where there is more than one owner of the animal or equipment, motor vehicle, motorized recreational vehicle, powered model vehicle each owner is jointly and severally liable for all amounts due under this by-law.
  - (e) Where any person or owner liable to pay money to the Town as a result of a contravention of this by-law owns an interest in land within the Town, the money owing may be collected in any manner in which a tax may be collected or enforced under The Municipal Act.

DONE AND PASSED by the Council of the Town of Carberry duly assembled this 12 day of September, 2002.

**TOWN OF CARBERRY**

  
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Mayor

  
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CAO

Read for a first time this 25 day of July, 2002.  
Read for a second time this 8 day of August, 2002.  
Read for a third time this 12 day of September, 2002.