



Town of Carman
By-Law 2075

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BEING a By-law of the Town of Carman to
regulate harmful noises

WHEREAS Section 231 of the *Municipal Act* L.M. 1996, c.58 – Chap. M225 states as follows:

“The power given to a council under this Division to pass by-laws is stated in general terms

- (a) To give broad authority to the council and to respect its right to govern the municipality in whatever way the council considers appropriate, within the jurisdiction given to it under this and other Acts; and
- (b) To enhance the ability of the council to respond to present and future issues in the municipality.”

AND WHEREAS Section 232(1) of the *Municipal Act* L.M. 1996, c.58 – Chap. M225 states, in part, as follows:

“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 centers, 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;
- (g) The operation of off-road vehicles on public or private property;
- (o) The enforcement of by-laws;”

AND WHEREAS Section 233 of the *Municipal Act* L.M. 1996, c.58 – Chap. M225 states, in part, as follows:

“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 Section 236(1) of the *Municipal Act* L.M. 1996, c.58 – Chap. M225 states, in part, as follows:

“Without limiting the generality of clause 232(1)(o) (enforcement of by-laws), a by-law passed under that clause may include provisions...

- (b) Remedying contraventions of by-laws, including
 - a. Creating offences,
 - b. Subject to the regulations, providing for fines and penalties, including the imposition of a penalty for an offence that is in addition to a fine or imprisonment, so long as the penalty relates to a fee, rate, toll, charge or cost that is associated with the conduct that gives rise to the offence, or related to enforcing the by-law,
 - f. Imposing a sentence of imprisonment for not more than six months for the commission of offences or non-payment of fines.”

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 Town of Carman and it is hereby enacted as follows:

1. **THAT** this By-law be referred to as the “Town of Carman Noise Control By-Law”;
2. **DEFINITIONS:**

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) “**Town**” means the Town of Carman.



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- (b) "**Commercial, Industrial or Residential District**" means the various zoning districts as defined in the By-laws relating to zoning and the Planning Schemes of the Town of Carman.
 - (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 any 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 licenced and registered, including, but not limited to, commercial or non-commercial racing vehicles, motorcycles, go-carts, snowmobiles, trail bikes, amphibious craft and motor boats.
 - (g) "**Noise Nuisance**" means any unreasonable 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) "**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, boar, car or rocket.
 - (i) "**Sound**" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction 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, in a residential district 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 harboring any animal or bird shall allow it to create a noise nuisance.
 - (b) Except to the extent, as may hereinafter be permitted by the 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) No person shall operate or permit the operation of a powered model vehicle so 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.
 - (d) No person shall operate or permit the operation of any mechanical powered saw, drill, sander grinder, lawn or garden tool, pressure washer, snow blower, or similar device used outdoors, to create a noise nuisance at the point of reception at any time except between the hours of 7:00 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.
 - (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 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.
 - (f) No person shall be shouting, or otherwise, whether by amplified sound or other, cause a noise nuisance within the Town of Carman.
 - (g) No person shall repair, rebuild, modify or test any motor vehicle, motorcycle, motorboat, 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



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following day on weekdays and between 10:00 am and 11:00 pm on Saturdays and on Sundays.

- (h) The use of Engine Retarder Brakes ("Jake" Brakes) is prohibited within the Town of Carman.

4. Exceptions:

The Provisions of this By-law shall not apply to:

- (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 a public right-of-way or public space.
- (c) Any military or other bands or any parade, operating under written permit from the Town of Carman.
- (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 holiday music.
- (g) Concerts, circuses, fairs, parades or any like activity having a permit issued by the Town of Carman.
- (h) Any activity, work or undertaking that would otherwise be prohibited by the By-law where the Town of Carman has issued a permit.
- (i) Aircraft

5. **THAT** Council may appoint an enforcement officer for the purposes of this By-law, who may conduct inspections and take steps to administer and enforce this By-law or to remedy a contravention of this By-law, and for those purposes shall be a designated officer and have the powers of a designated officer under the Act or a By-law officer under the By-Law Enforcement Act.

6. 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 Town and may be collected in any manner in which a tax may be collected or enforced under the act.

7. **THAT** the amount of administrative penalties set out in schedule "A" to the Town of Carman By-Law Enforcement By-Law No. 2071 or its amendments.

8. **THAT** wherever the provisions of any By-law or Town Planning Scheme of the Town, or any By-law or Town Planning Scheme administered by the Town 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.

9. **THAT** 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.

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

11. **THAT** By-law No. 2007/1906 is hereby repealed.

DONE AND PASSED by the council of the Town of Carman duly assembled in the Council Chambers of Memorial Hall, in the Town of Carman, in the Province of Manitoba, this 19th day of September, 2024.



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Mayor Brent Owen



Chief Administrative Officer Susan Stein

Read a first time this 3rd day of September 2024 A. D.
Read a second time this 19th, day of September, 2024 A.D.
Read a third time this 19th, day September, 2024 A. D.