

BYLAW 365/03

**A BYLAW OF THE TOWN OF CARNDUFF TO PROHIBIT CERTAIN  
ACTIVITIES CREATING NOISE AND TO RESTRICT THE HOURS WHEN  
CERTAIN SOUNDS MAY BE MADE**

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NOW THEREFORE, the Council of the Town of Carnduff enacts as follows:

1. This Bylaw shall be known as the "Noise Control Bylaw" of the Town of Carnduff.
2. In this Bylaw, including this Section:
  - (a) "Town" means the corporation of the Town of Carnduff or the area contained within the boundaries of The Town of Carnduff as the context requires;
  - (b) "engine brake" means a device commonly used in trucks and semi-trailer units to slow or brake the said vehicles by means of closing the exhaust valves on the engines of the said vehicles, or any similar device;
  - (c) "holiday" means any statutory holiday as defined in *The Interpretation Act* and amendments thereto, or any holiday proclaimed as such by the Council of The Town of Carnduff;
  - (d) "motor vehicle" means "motor vehicle" as defined in *The Motor Vehicles Act* of Saskatchewan;
  - (e) "residential building" means a building which is constructed as a dwelling for human beings;
  - (f) "residential district" means a district defined as such in the Zoning Bylaw enacted by the Council of The Town of Carnduff and amendments thereto;
  - (g) "signaling device" means a horn, gong, bell, klaxon, siren or other device producing an audible sound for the purpose of drawing people's attention to an approaching vehicle, including a bicycle;
  - (h) "weekday" means any day other than a Sunday or holiday;
  - (i) "Zoning Bylaw" means Bylaw No. 177 as enacted by the Council of The Town of Carnduff and amendments thereto and includes any bylaw passed in substitution for or in addition to Bylaw No. 177.

**GENERAL PROHIBITION**

3. 1) Except to the extent it is allowed by this Bylaw, no person shall make, or continue to make, or cause to be made, or allow to be made, or allowed to be continued to be made, any loud noise, or any unnecessary noise, or any unreasonable noise.  
  
2) What is a loud noise, an unnecessary noise, an unreasonable noise, or a noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of other persons is a question of fact to be determined by a court of competent jurisdiction which hears a prosecution of an offence against this Bylaw.  
  
3) Except to the extent it is allowed by this Bylaw, no person shall make, or continue to make, or cause to be made or cause to be continued, or allow to be made, or allow to be continued, any noise whatsoever which either annoys, disturbs, injures, endangers, or detracts from the comfort, repose, health, peace of safety of other persons within the limits of the Town of Carnduff.
4. In the absence of other evidence, or by way of corroboration of other evidence, a court of competent jurisdiction may infer from the evidence of a peace officer relating to the conduct of a person or persons, whether ascertained or not, that any loud noise, any unnecessary noise, or any unreasonable noise:
  - a) occurred;
  - b) was of a nature as to annoy, disturb, injure, endanger or distract from the comfort, repose, health, peace or safety of other persons;

within the meaning of clause 3 (3)





### DOMESTIC NOISES

5. Without restricting the generality of Section 3, no person shall operate or allow to be operated in any Residential District:
  - a) A lawn mower of any kind.
  - b) A snow clearing machine powered by an engine of any type.
  - c) A rototilling machine of any kind; or
  - d) Any other machine or device of a similar or like nature that is powered by an internal combustion engine or an electrical motor;During the hours of;
  - a) 10 o'clock in the evening and 7 o'clock of the next forenoon on weekdays;
  - b) 10 o'clock in the evening and 9 o'clock in the forenoon of the following day which is a Sunday or holiday.
6. No person who owns, keeps, houses, harbors, or allows to stay in his premises a dog shall allow such dog to bark excessively or howl excessively.
- 6.1 In the absence of other evidence, or by way of corroboration of other evidence, a court of competent jurisdiction may infer from the evidence of a peace officer relating to a person who owns, keeps, houses or harbours a dog or allows a dog to stay on or in his premises, whether ascertained or not, that such dog barked, howled or whined excessively within the meaning of 6.
7.
  - 1) No person being the owner or occupant of any premises shall operate, or permit to be operated, or suffer to be operated, or allow to be operated, play or allow to be played, any radio, phonograph, record-player, tape recorder, television set, musical instrument, or any other apparatus, appliance, device or machine used for the production or amplification of sound, either in or on private premises in a residential district in such a manner that the same can be easily heard by an individual or member of the public who is not on the same premises from which such noise or sound emanates.
  - 2) For the purpose of this Bylaw, "premises" shall mean the area contained within the boundaries of any lot and includes any building situated within such boundaries. Provided, however, that where any building contains more than one dwelling unit, each dwelling unit, or common area of such building and the land surrounding the building within the boundaries of the lot shall be deemed to be separate premises.
  - 3) For the purpose of this Bylaw, "occupant" shall mean the owner, occupant or licensee of the premises or any person found on the premises at or around the time when the noise or sound issues from the premises.

### CONSTRUCTION NOISES

8. (a) Except in an emergency, no person shall carry on the construction, erection, demolition, alteration or repair of any type of building or structure which involves hammering, sawing, drilling or the use of any machine, tools or any other equipment capable of creating a sound beyond the boundaries of the site on which the activity is being carried on, in any district in The Town of Carnduff **other than one designated in the Zoning Bylaw as an A-Agriculture District or C-Commercial, C1 Commercial C2 Commercial or M Industrial District, after the hour of 10 o'clock in the evening and before the hour of 7 o'clock in the morning of any day.**

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- (b) Subject to the provisions of The Lord's Day Act and except in an emergency, no person shall carry on the construction, erection, demolition, alteration or repair of any type of building or structure which involves hammering, sawing, drilling or the use of any machine, tools or any other equipment capable of creating a sound beyond the boundaries of the site on which the activity is being carried on, in any district in the Town of Carnduff **other than one designated in the Zoning Bylaw as an A-Agriculture District or C-Commercial, C1 Commercial C2 Commercial or M Industrial District between the hours of 10 o'clock in the evening and 9 o'clock in the morning of the following day which is a Sunday or statutory holiday.**
9. Except in an emergency, no person shall operate or allow to be operated a cement mixer, a cement mixer truck, a gravel crusher, a riveting machine, a trenching machine, a drag line, an air or steam compressor, a jack-hammer or pneumatic drill, a tractor or bulldozer or any other tool, device or machine of a noisy nature, so as to create a noise which may be heard in any residence between the hours of 10 o'clock in the evening and 7 o'clock in the morning.

#### **ADVERTISING NOISES**

10. No person shall advertise any event or merchandise by ringing bells, blowing whistles, calling loudly, playing music, playing any type of musical instrument, playing or using any type of noise making instrument, or by the use of loudspeakers or other devices for the amplification of sound, or by any other audible means, on any street or other public place or in any building or premises with the intention or result that the sound therefrom shall be or is audible to persons using or frequenting any street or other public place.

#### **CONCERTS**

11. (1) In this section:
- (a) "concert" means a music entertainment or performance by voices or instruments or pre-recorded means or all of them, with or without amplification, of an outdoor nature, to which members of the public are invited or admitted, with or without charge.
  - (b) "private property" means property to which the public have access, whether on payment or otherwise, only by permission of the owner, occupier or lessee of the property.
- (2) No person shall operate, maintain or conduct a concert on private property or in a park within the Town of Carnduff which produces, reproduces or amplifies sound in such a manner as to create an unusual or unnecessary noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace and safety of other persons who are not on the same property from which the sound emanates.
- (3) No person shall operate, maintain or conduct a concert in a park unless he has first obtained a permission, issued by the Town of Carnduff pursuant to the due consideration of the Council of the Town of Carnduff or any subsequent policy set out by the Council of the Town of Carnduff, to operate or conduct such a concert.
- (4) No person shall operate, maintain or conduct a concert in a park except in accordance with the conditions set out or attached to the permit to operate or conduct such concert.
- (5) No person shall operate, maintain or conduct a concert, in a park or on private property, except during the following times:
- (a) On each day from Monday to Thursday, inclusive, after the hour of 11:00 a.m. but not later than 9:00 p.m.;

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- (b) On Friday and Saturday, after the hour of 11:00 a.m. but not later than 10:00 p.m.; or
- (c) On Sunday, after the hour of 1:00 p.m. but not later than 6:00 p.m.
- (6) The Town of Carnduff may, upon written application, issue a special permit extending the hours during which a concert may be conducted.

#### **DIESEL MOTORS**

- 12. No person shall allow the diesel motor on a tractor which pulls a trailer or on a semi-trailer truck to remain running for longer than 20 minutes which the tractor-trailer, or tractor alone, is stationary in a residential district.

#### **ENGINE BRAKES**

- 13. No person shall engage, operate, apply or otherwise use an engine brake on any vehicle being driven within the Town of Carnduff, except in an emergency where it is necessary in the circumstances to do so.

#### **EXCEPTIONS**

- 14. The provisions of this Bylaw shall not apply to:
  - (a) The ringing of bells in churches, religious establishments and schools;
  - (b) The moderate use of musical instruments to call attention to an opportunity to contribute to a collection made for a charitable undertaking during the Christmas season or at any other time;
  - (c) 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;
  - (d) The moderate playing of musical instruments appropriate to any religious street service;
  - (e) The sounding of a general or a particular alarm or warning to announce a fire or other emergency or disaster;
  - (f) The sounding of factory whistles and similar devices at normal appropriate times;
  - (g) The sounding of police whistles or the sirens on any vehicle used by police or fire department or on any ambulance or public service vehicle;
  - (h) Any use of sound amplification equipment used by the police, fire department or any ambulance service or public service;
  - (i) 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 commodious space in connection with any public election, public celebration, or other reasonable gathering;
  - (j) Transit vehicles engaged in normal transit operations;
  - (k) Snow removal, road maintenance or other construction equipment engaged by the Town in snow removal or the construction, repair or maintenance of any streets, crossings, sewers, culverts and approaches, grades, sidewalks, or any other works authorized by *The Urban Municipality Act, 1984*, and amendments thereto, including any Act passed in substitution for or in addition thereto, or any other Act.

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- (l) The activities of the Carnduff and District Lions Club, or its successor, or to any other service organization, carnival, fair or exhibition provided that the consent of the Council of The Town of Carnduff to operate or hold such outdoors event, carnival, fair or exhibition has first been obtained.

**PENALTIES**

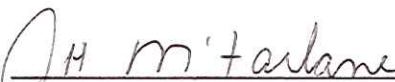
15. 1) Every person who contravenes any provision of this Bylaw is guilty of an offence and liable on summary conviction to a fine of not less than;
- (a) \$50.00 in the case of a first offence; and
  - (b) \$100.00 in the case of any subsequent offence within 3 months of any previous offence; and not more than;
  - (c) \$2,000 in the case of an individual;
  - (d) \$5,000 in the case of a corporation.
- 2) All fines, penalties and forfeitures mentioned in this Bylaw may be recovered and enforced with costs by summary conviction before a judge and, in default of payment, the person convicted may be imprisoned for a term of not more than 90 days, unless the fine or penalty are paid sooner.
- 3) This Bylaw may be enforced, and the contravention of any provisions of the bylaw restrained, by any court on action brought by the Town of Carnduff whether or not any penalty is imposed for the contravention.
- 4) Conviction of a person for a contravention of any provision of this Bylaw does not relieve him from compliance with the Bylaw, and the convicting judge or justice of the peace shall, in addition to any fine imposed, order the person to perform, within a specified period, any act or work necessary for the proper observance of the Bylaw or to remedy the contravention of the Bylaw.
- 5) A person who fails to comply with an order made pursuant to subsection (4) within the period specified in the order, is guilty of an offence and liable on summary conviction to a fine of not more than \$250 for each day during with the failure continues, to imprisonment for a term of not more than 90 days or to both such fine and imprisonment.
16. Bylaw No. 336/98 is hereby repealed.
17. This Bylaw shall come into force and take effect on the day of the final passing thereof.


***INTRODUCED AND READ A FIRST TIME THIS 12<sup>th</sup> DAY OF August, 2003.***

***READ A SECOND TIME TIME THIS 12<sup>th</sup> DAY OF August, 2003.***

***READ A THIRD AND FINAL TIME ON THE UNANIMOUS CONSENT OF THE COUNCIL PRESENT THIS 12<sup>th</sup> DAY OF August, 2003.***



  
Mayor

  
Administrator

*Town of Carnduff*  
*Noise Control Bylaw 365/03*

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Certified a true copy of the Bylaw passed  
by the resolution of the Council present at  
their regular meeting held on  
August, 12<sup>th</sup>, 2003.

Administrator

