

THE TOWN OF KILLARNEY

BY-LAW NO. 18 ,1990

Being a By-Law of The Town of Killarney
for the regulation or prevention of noise

WHEREAS The Municipal Act, R.S.M. 1988 Cap. M 225 s. 370 provides that the council of any municipality may pass by-laws:

- (a) For regulating or prohibiting the ringing of bells, except church and school bells, blowing of horns, beating of drums, and other noises liable to disturb or annoy residents of the municipality;
- (b) For regulating, controlling, or prohibiting the use, on the highways or in any public place in the town limits, of loud speakers or other devices for the amplification of sound;

AND WHEREAS the Council of The Town of Killarney deem it advisable and expedient to repeal By-Law No. 14, 1983 and to enact a new by-law prohibiting unnecessary noises within The Town of Killarney;

NOW THEREFORE The Town of Killarney, in Council regularly assembled, enacts as follows:

1. For purposes of this By-law the following definitions are prescribed:
 - A. Terminology
All terminology used in this By-Law, not specifically defined below, shall be in conformance with current publications of the Canada Standards Association and the American National Standards Institute or their respective successor bodies.
 - B. "A" Weighted Sound Level
means the sound pressure level in decibels as measured on a precision sound level meter using the "A" weighting network and "slow" meter response. The level so read is designated dBA.
 - C. Commercial, Industrial or Residential District
means the various zoning districts as defined in By-laws relating to zoning and planning schemes of The Town of Killarney.
 - D. Construction
means any site preparation, assembly, erection, substantial repair, alteration, or similar action, but excluding demolition, for or of public or private right-of-way, structures, utilities or similar property.
 - E. 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 the sound measured to the reference pressure, which is 20 micropascals.
 - F. Demolition
means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.
 - G. Emergency
means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

- H. 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.
- I. Motor Vehicle
means an automobile, motorcycle, truck and any other vehicle propelled or driven otherwise than by muscular power.
- J. Motorized Recreational Vehicles
means all recreational motorized vehicles whether or not duly licensed and registered, including, but not limited to, commercial or non-commercial racing vehicles, motorcycles, go-carts, snowmobiles, trail bikes, amphibious craft or motor boats.
- K. Noise Nuisance
means any loud, unnecessary or unusual sound or any sound whatsoever which either annoys, disturbs, injures, endangers or distracts from the comfort, repose, health, peace or safety of any person.
- L. Person
means any individual, firm, partnership, association, corporation, company or organization of any kind.
- M. Point of Reception
means any point on any lands or premises where sound, originating from other lands or premises, is received.
- N. Power Model Vehicles
means any self-propelled airborne, waterborne or landborne airplane, vessel or vehicle, which is not designed to carry a person including, but not limited to, any model airplane, boat, car or rocket.
- O. Precision Sound Level Meter
means an instrument used to measure sound levels and specified as a Type I Precision Sound Level Meter in CSA specification, Z107, 1-1973, or the American National Standards Institute specification, ANSI. S1. 4-1971 (R1976), as amended from time to time.
- P. Public Right-of-Way
means any street, avenue, lane, highway, boulevard, sidewalk, park, square, subway, bridge, wharf, thoroughfare or way or similar place, which is owned or controlled by a governmental entity.
- Q. Public Space
means any real property or structures thereon which are owned or controlled by a governmental entity.
- R. Sound
means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarification of that medium. The description of sound may include any characteristic of such sound, including duration, intensity, and frequency.
- S. Sound Level
means the "A" weighted sound level as measured and obtained by the use of a Precision Sound Level Meter as specified in the Canadian Standards Association (CSA) specification for sound level meters, A107, 1-1973, or the American National Standards Institute (ANSI) specification for sound level meters, ANSI S1.4-1971, (R1976), as amended from time to time.

T. Town
means the Town of Killarney, in the Province of Manitoba.

U. Weekday
means any day Monday through Friday, which is not a statutory holiday.

2. PROHIBITED ACTS

2.1 Noise Nuisance Prohibited

Except to the extent permitted by this By-law no person shall within the Town of Killarney make, continue to cause to be made or continued, any noise nuisance.

2.2 Specific Prohibitions

The following acts, among others, and the causing thereof, are declared to be in violation of this By-Law, but said enumeration shall not be deemed to be exclusive, namely:

A. Animals and Birds

No person shall own or possess or harbor any animal or bird which creates a noise nuisance at a point of reception.

B. Air Conditioners, Air Moving Devices, Pumps, Fans

No person shall operate or permit the operation of air conditioning equipment, air moving devices, pumps or fans which exceed a sound level of 50 dBA as measured at a point of reception between the hours of 11:00 o'clock p.m. and 7:00 o'clock a.m.

C. Construction Activities

No person shall operate or permit the operation of any tools or equipment used in construction, drilling, or demolition work on Sundays at any time or on weekdays between the hours of 11:00 o'clock p.m. and 7:00 o'clock a.m. the following day or on Saturdays and statutory holidays after 11:00 o'clock p.m. and before 7:00 o'clock a.m.

D. Domestic Power Tools

No person shall operate or permit the operation of any mechanical powered saw, drill, sander, grinder, lawn or garden tool, snowblower, or similar device used outdoors which creates a noise nuisance on weekdays between the hours of 11:00 o'clock p.m. and 7:00 o'clock a.m. the following day or on Saturdays and Sundays and statutory holidays after 11:00 o'clock p.m. and before 7:00 o'clock a.m.

E. Equipment Noise (including Motor Vehicles)

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.

F. Loading and Unloading

No person shall load, unload, delivered, pack or unpack, or otherwise handle any containers, products, materials or refuse in such a manner as to create a noise nuisance.

G. People Noise

No person shall yell, shout, whistle or sing to the extent that a noise nuisance is created.

H. Powered Model Vehicles

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.

I. Radios, Television Sets, Musical Instruments, and Sound Producing Devices in Residential District.

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 commercial district which produces, reproduces or amplifies sound in such a manner as to create a noise nuisance at a point of reception, unless used for the purpose of advertising some patriotic or other public object and unless a permit has been issued by The Town of Killarney.

J. Standing Vehicles

No person shall operate or permit the operation of any engine or motor in or on any motor vehicle or attached auxiliary equipment for a continuous period exceeding 10 minutes, while such vehicle is stationary in a residential district or in any other location within 150 meters of a residential district between the hours of 10:00 o'clock p.m. and 7:00 a.m. of the following day.

K. Street Sales

No person shall offer for sale or sell anything by shouting, outcry, or amplified sound within any residential or commercial district in the town limits.

L. Vehicle or Motor Boat Repairs and Testing

No person shall repair, rebuild, modify or test any motor vehicle, motorcycle, motor boat, outboard motor or recreational vehicle in such a manner as to create a noise nuisance at a point of reception between the hours of 10:00 o'clock p.m. and 7:00 o'clock a.m. of the following day on weekdays and Saturdays and at no time on Sundays.

3. 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 Killarney.
- 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 Christmas Carols.
- G. Concerts, circuses, fair, parades, or any like activity where a permit has been issued by The Town of Killarney.
- H. Any activity, work or undertaking which would otherwise be prohibited by this By-law where a permit has been issued by The Town of Killarney.
- I. Aircraft or railway rolling stock.
- J. The daily testing of fire alarm siren.

4. ADMINISTRATION

This By-law shall be administered in and for The Town of Killarney by the Secretary-Treasurer or by such other officer or agent as may be, in writing, designated from time to time.

5. PENALTY

5.1 Any person who contravenes, violates, disobeys, or refuses, omits, neglects, or fails to comply with any provisions of this By-law is guilty of an offence, and is liable, on summary conviction, to a fine of not more than One Thousand (\$1,000.00) Dollars or to imprisonment, in default, for a term not exceeding one (1) month.

5.2 In the absence of other evidence or by way or corroboration of other evidence, a court may infer from the evidence of the peace officer relating to the conduct of a person or persons, whether ascertained or not, that a noise nuisance as described in this by-law was caused or occurred.

6. REPEALS

6.1 All By-laws and By-law amendments, passed prior hereto by The Town of Killarney and still in force, relating to the regulation of noise shall hereinafter cease to have effect.

6.2 Without limiting the generality of S. 7.1 hereof, the following By-laws and amendments thereto made from time to time, are hereby repealed.

A. The Town of Killarney, By-Law No. 14, 1983.

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. CONFLICT WITH BY-LAWS AND TOWN PLANNING SCHEMES

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.

DONE AND PASSED in Council regularly assembled this 10th day of September, A.D., 1990.

THE TOWN OF KILLARNEY

Per: _____
Mayor

Per: *Sueen Stripp*
Acting Secretary-Treasurer