

TOWN OF MORINVILLE
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A BYLAW OF THE TOWN OF MORINVILLE, IN THE PROVINCE OF ALBERTA, TO REGULATE PROHIBIT AND ABATE NOISE WITHIN THE CORPORATE LIMITS OF THE TOWN OF MORINVILLE.

WHEREAS, the Municipal Government Act gives the Municipalities' the power to enact Bylaws and impose fines and penalties for infractions of their Bylaws;

NOW THEREFORE, the Municipal Council of the Town of Morinville, Alberta, duly assembled, hereby enacts as follows.

1.0 DEFINITIONS

This Bylaw may be cited as the, "Town of Morinville Noise Control Bylaw,"

In this Bylaw, except where otherwise defined;

"CAO" means the Chief Administrative Officer of the Town of Morinville, Alberta or the Director(s) or Department(s) designated by the Chief Administrative Officer to implement this Bylaw.

"COMMUNITY SPECIAL EVENT" means any event that is operated, coordinated, or sanctioned by Morinville or by resolution of Council and is meant for the unhindered enjoyment and benefit of all residents (e.g. festivals, parades, special events).

"COMMUNITY RECREATION" means recreational, social or multipurpose use without fixed seats and with an occupancy capacity of less than 500 persons primarily intended for local community purposes. Typical uses include community halls, Legions, community centres, and community league buildings operated by local community organizations.

"CONSTRUCTION EQUIPMENT" includes but is not limited to a riveting machine, concrete mixer, gravel crusher, steam shovel, dragline, backhoe, air or steam compressor, jack-hammer, pneumatic drill, truck, dump truck, tractor, other than a tractor used in agriculture, bulldozer, front-end loader, bob-cat, scraper, motor grader, or any other tool, device or machine if of a noisy nature.

"CONSTRUCTION NOISE" means noise caused by construction equipment.

"COUNCIL" means the duly elected municipal council of Morinville, Alberta.

"LAND USE BYLAW" means the current Land Use Bylaw of Morinville as amended from time to time, and includes any Bylaw passed in substitution for or in addition thereto.

"MORINVILLE" means the Municipality of the Town of Morinville.

"NOISE" means any sound which in the opinion of the Peace Officer having regard for all circumstances, including the time of day and the nature of the activity generating the sound, likely to unreasonably annoy or disturb persons or to injure, endanger or detract from the comfort, repose, health, peace, and safety of persons within the boundary of Morinville.

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"PARK" means any development specifically designed or reserved for the general public for active or passive recreational use. It includes all natural and man-made landscaping, facilities, buildings, playing fields, and other structures consistent with the general purposes or purposes of public parkland, whether or not such recreational facilities are publicly operated or operated by other entities pursuant to arrangements with the public authority owning the Park; Any land acquired by Morinville as a municipal reserve and/or school reserve, public utility lots, or environmental reserve as defined in the Planning Act and Land Use Bylaw; Any land designated by Council as a park or recreational area for the purposes of this Bylaw; Any land developed or designated by Morinville as a trail system, including pathways other than sidewalks.

"PEACE OFFICER" means a member of the Royal Canadian Mounted Police (RCMP), a Community Peace Officer of Morinville Enforcement Services, or a Sheriff pursuant to the Public Security Peace Officer Program and the Peace Officer Act of Alberta.

"PERMIT" means a written permit issued by the CAO (as defined) pursuant to **Schedule B** and the **Special Permit Fee Section** of this Bylaw.

"RESIDENTIAL DISTRICT" means any area or district classified as residential by the current Land Use Bylaw of and for Morinville.

"VEHICLE" means the definition within the current Traffic Safety Act as amended from time to time.

"VIOLATION TICKET" means a ticket issued pursuant to Part II of the Provincial Offences Procedure Act, RSA, 2000 c. P-34.

2.0 PROVISIONS, INFRACTIONS AND GENERAL ABATEMENT PROVISIONS

- 2.1 No person shall make, continue or cause, or allow to be made or continued any loud, unnecessary, or unusual noise or any noise whatsoever which either annoys, disturbs, injures, endangers, or detracts from the comfort, repose, health, peace, or safety of other persons within the limits of Morinville.
- 2.2 No person shall allow property they own or control to be used so that there originates from the property any loud, unnecessary, or unusual noise that disturbs the comfort or the repose of other persons in the vicinity of such property or generally within the limits of Morinville.
- 2.3 Except to the extent permitted by the Bylaw, no person shall:
 - 2.3.1 Cause excessive noise within Morinville;
 - 2.3.2 Operate or permit any other Person to operate within Morinville a motor vehicle that causes noise;
 - 2.3.3 Operate or permit any other Person to operate within Morinville an off-Highway Vehicle that causes noise;
 - 2.3.4 Operate or permit any person to operate within Morinville any vehicle or equipment contrary to the Traffic Safety Act of Alberta.
- 2.4 No owner shall allow property they own to be used in such a way that there is excessive noise originating from the property.

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2.5 In determining if a sound is reasonably likely to disturb the peace of others, the following criteria may be considered:

- 2.5.1 Type volume, and duration of the sound;
- 2.5.2 Time of day and day of week;
- 2.5.3 Nature and use of the surrounding area; and
- 2.5.4 Any other relevant factor.

3.0 VENDORS

3.1 No person shall ring bells or knock on doors to advertise the sale of goods and services in a residential area between the hours of 9:00 pm and 9:00 am.

4.0 OPERATION OF EQUIPMENT

4.1 No person shall operate a hand or power lawn mower, snow removal device, or motorized model toy in a residential district between the hours of 10:00 pm and 7:00 am. Any such equipment must be properly maintained, operated in a normal manner for that type of equipment, and the noise must be temporary and intermittent in nature.

4.2 Where an activity which is not specifically prohibited by any federal, provincial, or municipal laws or regulations; including this Bylaw and which involves creating or making a sound which:

- 4.2.1 Is or may become; or
- 4.2.2 Creates or produces or may create or produce noise, a person engaging in such activity shall do so in such manner as to create as little sound as practicable under the circumstances.

5.0 CONSTRUCTION

5.1 No person shall carry on construction of any kind that can be heard beyond the boundary of the construction site between the hours of 10:00 pm and 7:00 am.

6.0 SOUND AMPLIFYING EQUIPMENT

6.1 No person shall operate sound amplifying equipment from any premises, park, or other public space so as to unduly disturb residents of Morinville.

7.0 EXEMPTIONS AND ALLOWANCES

7.1 Permits and Permissions Granted by the CAO

- 7.1.1 A person may make a written application to the CAO for a temporary permit allowing for noise or sound levels that would otherwise violate this Bylaw.
- 7.1.2 Any application made pursuant to this section must be made at least 5 business days prior to the proposed activity and must contain the following information pertaining to the work or activity for which the exemption is sought:

- a) The name, address and telephone number of the applicant;
- b) The address of the site;

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- c) The building permit number (if applicable);
- d) A description of the source(s) of noise and sound levels;
- e) The period of time that the exemption is desired;
- f) The applicant's reason(s) why the exemption should be given; and
- g) A statement of the measures that will be taken to minimize the noise or sound levels.

7.1.3 The CAO may in their sole discretion:

- a) Waive any requirement of this section;
- b) Issue the temporary permit where Enforcement Services determines that circumstances make it impractical for the applicant to comply with this Bylaw;
- c) Revoke any temporary permit that has been issued where Enforcement Services or the RCMP determines that the applicant has not taken sufficient measures to minimize the noise of sound levels; or
- d) Impose any conditions on the issuance that Enforcement Services or the RCMP considers appropriate.

7.1.4 Any such permit or permission shall be produced to a Peace Officer upon demand.

7.1.5 Persons owning or controlling construction equipment, and persons owning or controlling land on which construction equipment is being operated shall be exempt from the provisions of this Bylaw if:

- a) The noise is generated pursuant to work done in the normal manner to the industry;
- b) The noise is generated between the hours as authorized by and set out in Schedule "A" attached to and forming part of this Bylaw; and
- c) All necessary federal, provincial and municipal permits, licenses, and approvals have been obtained and the work is not contrary to any federal, provincial or municipal laws or regulations.

7.1.6 Notwithstanding the **Operation of Equipment Section**, a person may at any time unload a vehicle containing:

- a) Fresh fruit, produce and perishable merchandise including milk, milk products, and baked goods, meat or;
- b) Daily or weekly newspapers delivered to vendors;
 - Canada Post
- c) Armoured vehicle deliveries and maintenance of banking machines/ATM and other banking functions;
- d) Designated Truck Route;
- e) Unloading commercial merchandise either within the truck route or off of the route.

8.0 MORINVILLE SANCTIONED ACTIVITIES

8.1 Activities of employees, servants, contractors, and agents of Morinville, while acting in the course of their employment and duties, are exempt from the provisions of this Bylaw. This provision includes, but is not limited to, activities such as snow removal, street cleaning, and community-wide special events.

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- 8.2 Activities of persons operating domestic equipment including without restricting the generality of the foregoing: lawn mowers, snow blowers, garden tillers, hedge trimmers, weed trimmers, and air blowers (gas or electric), and persons owning or controlling property upon which such equipment is used if the noise is of a temporary or intermittent nature, the equipment is properly maintained and operated in a normal manner for that type of equipment; and the noise occurs between the hours of 7:00 a.m. and 10:00 p.m.

9.0 EMERGENCIES

- 9.1 Any person performing work of an emergent nature for the preservation or protection of public safety, life, health, or property, may be exempt from this Bylaw. The onus will be on the person performing the work to demonstrate that the work was of an emergent nature.

10.0 RELAXATIONS

- 10.1 Notwithstanding **General Abatements Section** a person may operate a snow clearing device powered by an engine for the purpose of commercial, industrial and institutional removal of snow and ice from streets, parking lots and sidewalks during the 48 hour period following a snowfall, rain or freezing rain, subject to the right of the CAO to withdraw this relaxation on a site-specific basis.

11.0 POWERS OF PEACE OFFICERS

11.1 Inspections

11.1.1 A Peace Officer is hereby authorized to enter into any lands, buildings, or premises to inspect for conditions that may contravene or fail to comply with any provisions of this Bylaw.

11.1.2 A Peace Officer may direct any Person who has caused or made noise, or any person who owns a property from which noise has originated, to abate or eliminate the noise. The initial direction will be one verbal warning.

11.1.3 If after one verbal direction is ignored, the direction becomes written and the direction shall be in the form set out in the form of a violation ticket with the penalties prescribed in the **Penalty Provisions** of this Bylaw.

12.0 VIOLATION TICKET

12.1 A Peace Officer is hereby authorized and empowered to issue a Violation Ticket pursuant to Part II of the Provincial Offences Procedure Act, RSA, 2000, C. P-34 to any person who the Peace Officer has reasonable and probable grounds to believe has contravened any provisions of this Bylaw.

12.2 Any person who is issued a Violation Ticket for contravention of this Bylaw shall immediately discontinue creating noise to avoid prosecution for a second offense.

13.0 TICKET EVIDENCE OF SERVICE

13.1 A Violation Ticket shall be deemed to be sufficiently served if:

13.1.1 In compliance with the Provincial Offences Procedure Act 2000 Ch P-34 S32 (1) if an offence notice is served by the Peace Officer who issued it, the Peace Officer shall complete and sign a certificate of service on the violation ticket that the Peace Officer personally served the offence notice on the person charged and the Peace Officer shall indicate the date of service;

13.1.2 In compliance with the Provincial Offences Procedure Act 2000 Ch P-34 S 30(1-2) 31(1-6) and 32(1) a violation ticket under this part must include:

- A certificate of offense; and
- An offence notice;
- A certificate of offence;
- Shall be completed and signed by a Peace Officer who believes on reasonable and probable grounds that an offence has been committed;
- Shall be filed with a clerk prior to the initial appearance date indicated on the violation ticket; and
- Does not need to be sworn.

13.1.3 An Offence Notice shall:

- Indicate the specified penalty for the offence;
- How and when the defendant may respond to the offence notice; and
- That the defendant may be convicted in the defendant's absence without a hearing if the defendant fails to respond to the violation ticket by the initial appearance date indicated on the offence notice or if the defendant pleads not guilty and fails to appear in Court in person or by an agent on the defendant's trial date.

13.1.4 An offence notice shall be served on a defendant:

- In the case of a defendant who is an individual, by delivering it personally to the defendant;
- In the case of a defendant that is a municipality by delivering it personally to the chief elected official or CAO of the municipality;
- In the case of a defendant that is a Metis settlement, by delivering it personally to the settlement chair or the settlement administrator,
- In the case of a defendant that is a corporation other than a municipality or Metis settlement:
 - By sending it by single registered mail to the registered office of the corporation; or
 - By delivering it personally to the manager, secretary, or other executive officer of the corporation or the person apparently in charge of a branch office of the corporation at an address held out by the corporation to be its address.

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13.1.5 Where an offence notice is mailed to a defendant and the date of the mailing of the offence notice is set out in the related certificate of offence:

- That offence notice is in the absence of evidence to the contrary deemed to have been served on the defendant on the 7th day from the date of mailing as set out in the certificate of offence.

13.1.6 Evidence of Service

- If an offence notice is served by the Peace Officer who issued it, the Peace Officer shall complete and sign a certificate of service on the violation ticket that the Peace Officer personally served the offence notice on the person charged and the Peace Officer shall indicate the date of service;
- A certificate of service does not need to be sworn; and
- Service is posted in a conspicuous place on the land referred to on the notice.

14.0 DUTY TO ENFORCE

14.1 Each Peace Officer is hereby charged with the duty of enforcing the provisions of this Bylaw.

15.0 PENALTY PROVISIONS

15.1 Any person who contravenes a provision of this Bylaw is guilty of an offence and is liable to a fine of \$125 for a first offence, and \$250 for a second or subsequent offence in the same calendar year.

16.0 SPECIAL PERMIT FEE

16.1 Any person conducting construction or special events outside of the hours authorized and set out in sections 4.1, 5.1, 8.2 and schedule "A" attached to and forming part of this Bylaw is required to apply for a special Noise Exemption permit with a fee required of \$100.00.

17.0 SEVERABILITY

17.1 If any Section or parts of this Bylaw are found in any court of law to be illegal or beyond the power of Council to enact, such Section or parts shall be deemed to be severable and all other Section or parts of this Bylaw shall be deemed to be separate and independent there from and to be enacted as such.

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That Bylaw 19/2008 is hereby rescinded.

That this Bylaw shall come into full force and effect upon the final passing thereof.

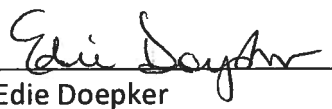
READ a first time the 13th day of April, 2010

READ a second time the 27th day of April, 2010

READ a third time and finally passed the 11th day of May, 2010



R. Lloyd Bertschi
Mayor



Edie Doepker
CAO

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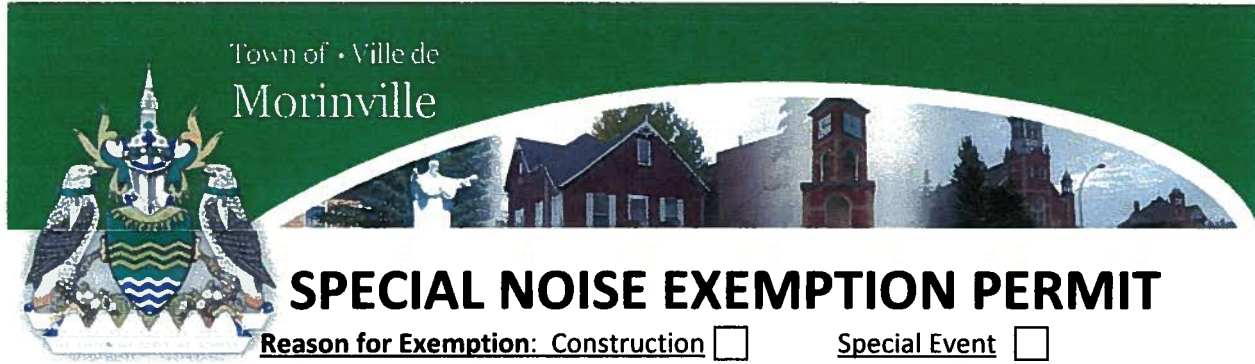
Schedule A – Hours of Permitted Noise

HOURS DURING WHICH CONSTRUCTION EQUIPMENT NOISE IS PERMITTED

7:00 am - 10:00 pm
Monday - Saturday

10:00 am – 10:00 pm
Sundays and Statutory Holidays

Schedule B – Special Noise Exemption Permit



Permit Applicant Name	
Address of Applicant	
Applicant Phone Number	
Building Permit Number	Development Permit Number
Address of Permit Site	
Business License Number	

Describe the source(s) of noise or sound levels:

Provide details of the period of time the exemption is desired

Provide reason(s) why this exemption should be granted by Morinville of Morinville

Provide a statement of measures that will be taken to minimize the noise or sound levels

Administration

You are hereby notified that from the hours of _____ on the specified day(s) of _____, 20____ the CAO or Designate of Morinville has provided a special permit to:
Name of Company/Business/Permit Applicant _____ for the following service(s):

- a.
- b.
- c.
- d.
- e.

CAO or Designate of Morinville

Copy to Enforcement Services