

BY-LAW 313 (CONSOLIDATED WITH AMENDMENTS)

**A BY-LAW OF THE TOWN OF OROMOCTO RELATING
TO NOISE, NUISANCE AND DISTURBANCE**

Incorporating By-law Nos.:

313 (July 16, 1998)

313-A (September 14, 2000)

313-B (September 19, 2013)

BE IT ENACTED by the Mayor and Councillors
of the Town of Oromocto as follows:

1. Definitions

In this By-Law:

- a. “Town” means the Town of Oromocto
- b. “Public Address System” means any system of loud speakers, amplifiers, microphones or reproducers or any combination of such equipment, used in the reproduction or amplification of music, speech or other sounds, when used for communication to or otherwise addressing or entertaining a person or group of people, whether the same is mounted upon a vehicle or upon a building or other structure or upon the ground.
- c. “Motor vehicle” means a vehicle that is drawn, propelled, or driven by any means other than muscular power, including, without limiting the generality of the foregoing, a motor driven cycle or an all terrain vehicle (ATV).
- d. “Motor driven cycle” means a motor vehicle having a seat or saddle for the use of the rider and designated to travel on not more than three wheels and propelled by a motor and includes a motorcycle, a motor scooter, a moped, a tricycle or a bicycle with a motor attached.
- e. “Street” includes alley, boulevard, bridge, court, footway, highway, park, trail, lane, public drive, sidewalk, square, and any part of any of them, open to the public use.
- f. “Dwelling-house” means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence and includes a building within the curtilages of a dwelling-house that is connected to it by a doorway or by a covered and enclosed passageway.
- g. “Chief of Police” means the Town of Oromocto Detachment Commander of the Royal Canadian Mounted Police.
- h. “Public Place” means any highway, parkland, public bridge, road, lane footway, square, court, alley or passage, whether a thoroughfare or not; parking lot, school, mall, place of congregation, picnic site, beach, or place when any part thereof is used by the general public for the passage or parking of vehicles and includes any open space that is owned by the Town of Oromocto to which the public have or are permitted to have access, or access as of right or by invitation, express or implied. **(By-law No. 313-B/Enacted September 19, 2013)**

2. Prohibitions

- a. Audible Disturbance - No person shall, in the Town, make any noise which audibly disturbs or tends to disturb the peace and tranquility of the Town or any portion thereof. The following acts, among others, are hereby declared to be such audible disturbances:
 1. The sounds of fighting, screaming, shouting, swearing, singing, or using insulting or obscene language in a dwelling-house or out of doors, which

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are capable of being heard on any street in the Town or in any adjacent dwelling-house. (By-law No. 313-A/Enacted September 14, 2000)

2. The operation of a home or vehicular or portable sound amplification device or the playing of a musical instrument at a volume which, in the opinion of the Chief of Police or his delegate, is audibly disturbing to persons upon the street or in any adjacent dwelling house.
 3. The operation of any public address system for the purpose of advertising or for gain.
 4. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, motor vehicle, motor driven cycle or any item of construction equipment, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
 5. The operation of any noise-creating blower, power fan or any internal combustion engine or any outdoor power tools, the operation of which causes noise between the hours of 11:00 pm and 7:00 am, unless the noise from such blower or fan is muffled and such engine or outdoor power tool is equipped with a muffler device sufficient to deaden such noise.
 6. The sounding of any signaling device, such as the operation of a vehicle horn for a period longer than would be reasonable under the circumstances.
 7. The starting or driving or turning or stopping of any vehicle or accelerating the vehicle engine while the vehicle is stationary, in a manner which causes any loud and unnecessary noise in or from the engine, the exhaust system, or the braking system, or from the contact of the tires with the roadway.
 8. Noises in connection with athletic and recreational activities within Town parks and outdoor play areas after the hours of 11:00 p.m. and before 7:00 a.m. daily, unless specifically exempted by Council. (By-law No. 313-A/Enacted September 14, 2000)
- b. Visual Disturbance - No person shall, in the Town, create any display which visually disturbs or tends to disturb the peace and tranquility of the Town or any portion thereof. The following acts, among others, are hereby declared to be such visual disturbances:
1. The use of lights either fixed or mobile, continuous or pulsing, excepting signage approved under By-Law 302, AA Zoning By-Law.®
 2. The external display of balloons, banners, pennants, streamers, bunting or flags as advertising devices as detailed at Article 45 of By-Law 302, AA Zoning By-Law®. Each business may fly up to three official flags (National, Provincial, Municipal) of their choice, not exceeding a total of six square metres in area.
- c. Fighting Disturbance - No person shall participate in a fight or other similar physical confrontation in any public place or any place to which the public reasonably has access. (By-law No. 313-B/Enacted September 19, 2013)

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3. Written Approval Required

Without restricting the generality of the foregoing the following shall not be carried on nor permitted without the specific written approval of Council or Council's designate:

- a. The conduct of racing competitions of motorcycles, snow machines or motor vehicles anywhere within the Town, whether or not an admission fee is charged.
- b. The detonation of any fireworks or explosive devices not used in construction at any time without specific written authority from the Fire Chief.
- c. The operation of a Carnival or Circus.
- d. The carrying out of any works in connection with the construction or reconstruction, alteration or repairing of any building or structure; of any evacuation or excavation works with any mechanical device between the hours of 11:00 pm and 7:00 am, without permission in writing from the Technical Officer.

4. Terms and Conditions - Written Approval

The granting authority may apply terms and conditions to any of the activities approved in accordance with 3 above, as to but not be limited to the following specifics:

- a. Nature of activity,
- b. Location,
- c. Timings,
- d. Crowd size,
- e. Volume of sound,
- f. Use of lights, and

any such permission so granted may be cancelled by the Chief of Police at any time if he shall be of the opinion that the operation of such activity for which such permission was granted violates any of the terms and conditions attached to such permission or disturbs or tends to disturb the peace and tranquility of the Town or any portion thereof.

5. Appeal

Any person who has been refused permission under the provisions of this By-Law or whose permit has been revoked by the Chief of Police, may appeal such refusal or cancellation, through the Administrator/Clerk to the Council, and the Council may:

- a. Grant or restore or refuse such permission and shall render such decision within 14 (fourteen) days of receipt of any appeal, and
- b. Should Council decide to grant or restore any such permission, it may impose such terms and conditions as it may determine in respect thereof.

6. Exemptions (By-law No. 313-A/Enacted September 14, 2000)

The provisions of this By-Law shall not apply to:

- a. Noises by agents, servants or employees of the Town, who are engaged in the reasonable execution of their duties and doing work which may be described as being of an essential or emergency nature and carried out at the request of the Town;
- b. Noises in connection with indoor athletic and recreational activities in arenas, gymnasiums and community centers,

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- c. Noises in relation to traditional, festive, and religious activities when authorized by Council;
- d. Noises in relation to parades, street dances, and other community activities authorized by Council;
- e. Noises caused by motor vehicles or equipment being used for emergency purposes.

7. Penalty (By-law No. 313-B/Enacted September 19, 2013)

- a. Every person who violates any provision of this by-law is guilty of an offence
- b. Every person charged with an offence, other than an offence pursuant to subsection c. under Section 2. Fighting Disturbance:
 - (1) may on or before the date a charge pertaining to the offence has been laid in Provincial Court, make a voluntary payment of fifty dollars (\$50) to the Town of Oromocto as follows:
 - (a) in person at the Service Centre Counter, Oromocto Municipal Building, 4 Doyle Drive, Oromocto, NB; or
 - (b) by mail to: Town of Oromocto, 4 Doyle Drive, Oromocto, NB, E2V 2V3, "Attention Service Centre Counter", by cheque or money order only, payable to the Town of Oromocto;at which time the ticket or ticket number shall be surrendered to the Town of Oromocto and such payment shall be deemed payment in full; or
 - (2) if the voluntary payment set out in subsection (2) has not been received on or before the date a charge pertaining to the offence has been laid in Provincial Court, the person charged with the offence may make a voluntary payment of \$75.00 (seventy-five dollars) as follows:
 - (a) in person at the Burton Court House, 23 Route 102 Highway, Burton, NB, by cash or certified cheque or money order payable to the Minister of Finance; or
 - (b) by mail to: Burton Court House, PO Box 94, Oromocto, NB, E2V 2G4, "Attention Provincial Court", by certified cheque or money order only, payable to the Minister of Finance;at which time the ticket or ticket number shall be surrendered to the Provincial Court and such payment shall be deemed payment in full; or
 - (3) if the voluntary payments set out in subsections (2) and (3) above have not been received on or before the hearing scheduled for entering of a plea before the Provincial Court, the person is liable on summary conviction to a fine punishable under Part II of the *Provincial Offences Procedure Act* as a Category "B" offence..

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- c. Every person charged with an offence under subsection c. under Section 2. Fighting Disturbance of this by-law:
- (1) may on or before the date a charge pertaining to the offence has been laid in Provincial Court, make a voluntary payment of one hundred and fifty dollars (\$150) to the Town of Oromocto as follows:
 - (a) in person at the Service Centre Counter, Oromocto Municipal Building, 4 Doyle Drive, Oromocto, NB; or
 - (b) by mail to: Town of Oromocto, 4 Doyle Drive, Oromocto, NB, E2V 2V3, “Attention Service Centre Counter”, by cheque or money order only, payable to the Town of Oromocto;at which time the ticket or ticket number shall be surrendered to the Town of Oromocto and such payment shall be deemed payment in full; or
 - (2) if the voluntary payment set out in subsection (2) has not been received on or before the date a charge pertaining to the offence has been laid in Provincial Court, the person charged with the offence may make a voluntary payment of \$200.00 (two hundred dollars) as follows:
 - (a) in person at the Burton Court House, 23 Route 102 Highway, Burton, NB, by cash or certified cheque or money order payable to the Minister of Finance; or
 - (c) by mail to: Burton Court House, PO Box 94, Oromocto, NB, E2V 2G4, “Attention Provincial Court”, by certified cheque or money order only, payable to the Minister of Finance;at which time the ticket or ticket number shall be surrendered to the Provincial Court and such payment shall be deemed payment in full; or
 - (3) if the voluntary payments set out in subsections (2) and (3) above have not been received on or before the hearing scheduled for entering of a plea before the Provincial Court, the person charged with the offence is liable on summary conviction to a minimum fine of \$250 (two hundred and fifty dollars), and not more than the maximum fine that may be imposed for commission of an offence punishable under Part II of the *Provincial Offences Procedure Act* as a Category “C” offence.

7. Repealed

By-Law No. 245 is hereby repealed.

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READ FOR THE FIRST TIME: 21 May 1998

READ FOR THE SECOND TIME: 10 June 1998

**READ FOR THE THIRD TIME
AND ENACTED: 16 July 1998**

(Sgd) A Wayne Carnell
A W Carnell
ADMINISTRATOR/CLERK

(Sgd) Fay Tidd
Fay Tidd
MAYOR