

BY-LAW 1999/75

**BEING A BY-LAW TO CONTROL NOISE
IN THE MUNICIPALITY OF WEST NIPISSING**

WHEREAS it is expedient to exercise the power conferred upon the Council by the Environmental Protection Act, R.S.O. 1990, E. E-19, as amended, and other statutory authority; and

WHEREAS a recognized body of scientific and technological knowledge exists by which sound and vibration may be substantially reduced; and

WHEREAS the people have a right to and should be ensured an environment free from unusual, unnecessary, or excessive sound or vibration which may degrade the quality and tranquility of their life or cause nuisance; and

WHEREAS it is the policy of the Council to reduce and control such sound or vibration;

NOW THEREFORE, the Council of the Corporation of the Municipality of West Nipissing enacts as follows:

1. INTERPRETATION

(1) In this by-law,

- a) **“Construction”** includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, the laying of pipe and conduit whether above or below ground level, street and highway building, concreting, equipment installation and alteration and structural installation of construction components and materials in any form or for any purpose, and includes any work in connection therewith;
- b) **“Construction Equipment”** means any equipment or device designed and intended for use in construction, or material handling, including but not limited to, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment;
- c) **“Conveyance”** includes a vehicle and any other device employed to transport a person or persons or goods from place to place but does not include any such device or vehicle if operated only within the premises of a person;
- d) **“Council”** means the Council of the Corporation of the Municipality of West Nipissing;
- e) **“Highway”** includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle designed and intended for, or used by, the general public for the passage of vehicles.
- f) **“Minister”** means Minister of the Environment;
- g) **“Ministry”** means the Ministry of the Environment;
- h) **“Motor Vehicle”** includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include the cars of electric or steam railways, or other motor vehicles running only upon rails, or a motorized snow vehicle, traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of the Highway Traffic Act;
- i) **“Motorized Conveyance”** means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;
- j) **“Municipality”** means land within the geographic limit of the Corporation of the Municipality of West Nipissing.
- k) **“Noise”** means unwanted sound;
- l) **“Point of Reception”** means any point on the premises of a person where sound or vibration originating from other than those premises is received.
- m) **“Municipal Law Enforcement Officer”** means the ~~West Nipissing~~ Police Service or any person appointed by Council for the purpose of enforcing the by-laws of the Municipality.

(2) **ZONES**

In this by-law,

- (a) **“Residential Area”** means those areas of the municipality as defined in the applicable zoning by-laws and including all structures used for residential or seasonal occupancy.
- (b) **“Quiet Zone”** means those areas of the municipality as defined in the applicable zoning by-laws.

2. GENERAL PROHIBITIONS

No person shall emit or cause or permit the emission of sound resulting from an act listed herein, and which sound is clearly audible at a point of reception:

- 1) Racing of any motorized conveyance other than in a racing event regulated by law.
- 2) The operation of a motor vehicle in such a way causing the tires to squeal.
- 3) The operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device in good working order and in constant operation.
- 4) The operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sounds due to improperly secured load or equipment, or inadequate maintenance.
- 5) The operation of an engine or motor in, or on, any motor vehicle or item of attached auxiliary equipment for a continuous period exceeding five minutes, while such vehicle is stationary in a Residential Area or a Quiet Zone unless:
 - (i) the original equipment manufacturer specifically recommends a longer idling period for normal and efficient operation of the motor vehicle in which case such recommended period shall not be exceeded; or,
 - (ii) operation of such engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to, operation of ready-mixed concrete trucks, lift platform and refuse compactors; or
 - (iii) weather conditions justify the use of heating or refrigerating systems powered by the motor or engine for the safety and welfare of the operator, passengers or animals, or the preservation of perishable cargo, and the vehicle is stationary for purposes of delivery or loading; or
 - (iv) prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine; or,
 - (v) the idling is for the purpose of cleaning and flushing the radiator and associated circulation system for seasonal change of antifreeze, cleaning of the fuel system, carburetor or the like, when such work is performed other than for profit.
- 6) The operation of a motor vehicle horn or other warning device except where required or authorized by law or in accordance with good safety practices.
- 7) The operation of any item of construction equipment in a Quiet Zone or Residential Area without effective muffling devices in good working order and in constant operation.

3. PROHIBITIONS BY TIME AND PLACE

No person shall emit or cause or permit the emission of sound resulting from any act listed in Table 3-1 if clearly audible at a point of reception located in an area of the municipality within a prohibited time shown for such an area.

CREATED: NOV-16-1999

**SCHEDULE "A" (TABLE 3.1) OF BY-LAW 1999/75
TO CONTROL NOISE**

PROHIBITIONS BY TIME AND PLACE

DESCRIPTION	PROHIBITED PERIOD OF TIME	
	QUIET ZONE	RESIDENTIAL AREA
1) The detonation of fireworks or explosive devices not used in construction.	At all times	At all times
2) The discharge of firearms	At all times	At all times
3) The operation of a combustion engine which, i) is, or ii) is used in, or iii) is intended for use in, a toy, or a model or replica or any device, which model or replica has no function other than amusement and which is not a conveyance.	At all times	At all times
4) The operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electro-mechanical transducers, and intended for the production, reproduction or amplification of sound.	At all times	F
5) The operation of any auditory signaling device, including but not limited to the ringing of bells or gongs and the blowing of horns or sirens or whistles, or the production, reproduction or amplification of any similar sounds by electronic means except where required or authorized by law or in accordance with good safety practices.	At all times	D & E
6) The operation of any powered rail car including but not limited to refrigeration cars, locomotives or self-propelled passenger cars, while stationary on property not owned or controlled by a railway governed by the Canada Railway Act.	At all times	B
7) The operation of any motorized conveyance other than on a highway or other place intended for its operation.	At all times	B
8) The venting, release or pressure relief of air, steam or other gaseous material, product or compound from any autoclave, boiler, pressure vessel, pipe, valve, machine device or system.	At all times	A
9) Persistent barking calling or whining or other similar persistent noise making by any domestic pet or any other animal kept or used for any purpose, including residential and agricultural areas. (See exemption 4.1 for agricultural)	At all times	At all times
10) The operation of a commercial car wash, with air drying equipment.	At all times	G
11) Yelling, shouting, hooting, whistling or singing.	At all times	A
12) The operation of a power assisted hang glider or parafoil.	At all times	D & E
13) The operation of any item or snow making equipment.	At all times	E
14) All selling or advertising by shouting or outcry or amplified sound.	At all times	D & E
15) Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, products, materials, or refuse, whatsoever, unless necessary for the maintenance or essential services or the moving or private household effects.	D & E	D & E
16) The operation of any equipment in connection with construction.	D & E	F
17) The operation or use of any tool for domestic purposes other than snow removal.	C	F
18) The operation of solid waste bulk lift or refuse compacting equipment.	C	B
19) The operation of a commercial car wash of a type other than mentioned in item 10.	C	A
20) The sound from or created by any radio, phonograph, tape player, television, public address system, sound equipment, loud speaker, or any musical or sound producing instrument of whatever kind when the same is played or operated in such a manner or with such volume as to disturb the peace, quiet, comfort or repose of any individual in an office, dwelling house, apartment, hotel hospital or any other type of residence.	At all times	At all times

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PROHIBITED PERIODS OF TIME:

- A 23h00 ONE DAY TO 07h00 NEXT DAY (09h00 SUNDAYS)
- B 19h00 ONE DAY TO 07h00 NEXT DAY (09h00 SUNDAYS)
- C 17h00 ONE DAY TO 07h00 NEXT DAY (09h00 SUNDAYS)
- D ALL DAY SUNDAYS AND STATUTORY HOLIDAYS
- E 19h00 ONE DAY TO 07h00 NEXT DAY
- F 21h00 ONE DAY TO 07h00 NEXT DAY (09h00 SUNDAYS)
- G 22h00 ONE DAY TO 07h00 NEXT DAY

4. EXEMPTION

Public Safety

Notwithstanding any other provision of this by-law, it shall be lawful to emit or cause or permit the emission of sound or vibration in connection with emergency measures undertaken:

- (a) for the immediate health, safety or welfare of the inhabitants or any of them; or
- (b) for the preservation or restoration of property;

unless such sound or vibration is clearly of a longer duration or nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose.

- 1) Notwithstanding item 9. in Table 3-1, 'Prohibition by time and place' of this by-law, persistent barking, calling or whining or other similar persistent noise making by a domestic pet or other animal kept for the purpose of assisting a farmer in carrying out his duties shall only be permitted if the requirement of the noise is necessary in relation to the work being carried out.

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5. GRANT OF EXEMPTION BY COUNCIL

1) Application to Council

Notwithstanding anything contained in this by-law, any person may make application to Council to be granted an exemption from any of the provisions of this by-law with respect to any source of sound or vibration for which he might be prosecuted and Council, by resolution, may refuse to grant any exemption of lesser effect and any exemption granted shall specify the time period, not in excess of six months, during which it is effective and may contain such terms and conditions as Council sees fit.

2) Decision

In deciding whether to grant the exemption, Council shall give the applicant and any person opposed to the application an opportunity to be heard and may consider such other matters as it sees fit.

3) Breach

Breach by the applicant of any of the terms or conditions of any exemption granted by Council shall render the exemption null and void.

6. EXEMPTION OF TRADITIONAL, FESTIVE OR RELIGIOUS ACTIVITIES

Notwithstanding any other provision of this by-law, this by-law does not apply to a person who emits or causes or permits the emission of sound or vibration in connection with any of the listed traditional, festive, religious and other/all activities declared a community event by Council.

7. SEVERABILITY

If a court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

8. PENALTY

Every person who contravenes any provision of this by-law is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act*.

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9. ENFORCEMENT

The provisions of this by-law shall be enforced by the ~~West Nipissing~~ Police Service or by any Municipal Law Enforcement Officer or person appointed by Council.

READ A FIRST TIME AND CONSIDERED READ A SECOND AND THIRD TIME AND PASSED AS SUCH IN OPEN COUNCIL THIS 16TH DAY OF NOVEMBER 1999.

MAYOR

CLERK

CREATED: **NOV-1999**

Municipality of West Nipissing
NOISE CONTROL BY-LAW
APPENDIX "A" TO BY-LAW 1999/75
AS AMENDED BY BY-LAWS 2007/57

PART I – PROVINCIAL OFFENCES ACT

ITEM	<u>COLUMN 1</u> SHORT FORM WORDING	<u>COLUMN 2</u> PROVISION CREATING OR DEFINING OFFENCE	<u>COLUMN 3</u> SET FINE
1	The detonation of fireworks or explosives in a Quiet Zone	Sec. 3, Table 3-1(1)	\$ 100.00
2	The detonation of fireworks or explosives in a Residential Area.	Sec. 3, Table 3-1 (1)	\$ 100.00
3	The discharge of firearms in a Quiet Zone.	Sec. 3, Table 3-1 (2)	\$ 100.00
4	The discharge of firearms in a Residential Area	Sec. 3, Table 3-1 (2)	\$ 100.00
5	The operation of a combustion engine in a Quiet Zone.	Sect. 3, Table 3-1 (3)	\$ 100.00
6	The operation of a combustion engine in a Residential Area.	Sect. 3, Table 3-1 (3)	\$ 100.00
7	the operation of any electronic device or group of connected electronic devises in a Quiet Zone.	Sect. 3, Table 3-1 (4)	\$ 100.00
8	The operation of any electronic device or group of connected electronic devised in a Residential Area	Sect. 3, Table 3-1 (4)	\$ 100.00
9	The operation of any auditory signalling device in a Quiet Zone.	Sec. 3, Table 3-1 (5)	\$ 100.00
10	The operation of any auditory signalling device in a Residential Area.	Sect. 3, Table 3-1 (5)	\$ 100.00
11	The operation of any powered rail car in a Quiet Zone.	Sect. 3, Table 3-1 (6)	\$ 100.00
12	The operation of any powered rail car in a Residential Area.	Sect. 3, Table 3-1 (6)	\$ 100.00
13	The operation of any motorized conveyance in a Quiet Zone.	Sect. 3, Table 3-1 (7)	\$ 100.00
14	The operation of any motorized conveyance in a Residential Area.	Sect. 3, Table 3-1 (7)	\$ 100.00
15	The venting, release or pressure relief of air, steam or other gaseous material in a Quiet Zone.	Sect. 3, Table 3-1 (8)	\$ 100.00
16	The venting, release or pressure relief of air, steam or other gaseous material in a Residential Area.	Sect. 3, Table 3-1 (8)	\$ 100.00
17	Persistent barking calling or whining in a Quiet Zone.	Sect. 3, Table 3-1 (9)	\$ 100.00
18	Persistent barking calling or whining in a Residential Area.	Sect. 3, Table 3-1 (9)	\$ 100.00
19	Persistent barking calling or whining in an Agricultural Area.	Sect. 3, Table 3-1 (9)	\$ 100.00
19	The operation of a commercial car wash with air drying equipment in a Quiet Zone.	Sect. 3, Table 3-1 (10)	\$ 100.00
20	The operation of a commercial car wash with air drying equipment in a Residential Area.	Sect. 3, Table 3-1 (10)	\$ 100.00
21	Yelling, shouting, hooting, whistling or singing in a Quiet Area.	Sect. 3, Table 3-1 (11)	\$ 100.00
22	Yelling, shouting, hooting, whistling or singing in a Residential Area.	Sect. 3, Table 3-1 (11)	\$ 100.00
23	The operation of a power assisted hang glider or parafoil in a Quiet Zone.	Sect. 3, Table 3-1 (12)	\$ 100.00
24	The operation of a power assisted hang glider or parafoil in a Residential Zone.	Sect. 3, Table 3-1 (12)	\$ 100.00
25	The operation of any item or snow making equipment in a Quiet Zone.	Sect. 3, Table 3-1 (13)	\$ 100.00
26	The operation of any item or snow making equipment in a Residential Area.	Sect. 3, Table 3-1 (13)	\$ 100.00
27	All selling or advertising by shouting or outcry of amplified sound in a Quiet Zone.	Sect. 3, Table 3-1 (14)	\$ 100.00
28	All selling or advertising by shouting or outcry of amplified sound in a Residential Area.	Sect. 3, Table 3-1 (14)	\$ 100.00
29	Loading, unloading, delivering, packaging, unpacking, or otherwise handling any containers, products, materials or refuse, whatsoever in a Quiet Zone.	Sect. 3, Table 3-1 (15)	\$ 100.00
30	Loading, unloading, delivering, packaging, unpacking, or otherwise handling any containers, products, materials or refuse, whatsoever in a Residential Area.	Sect. 3, Table 3-1 (15)	\$ 100.00

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ITEM	<u>COLUMN 1</u> SHORT FORM WORDING	<u>COLUMN 2</u> PROVISION CREATING OR DEFINING OFFENCE	<u>COLUMN 3</u> SET FINE
31	The operation of any equipment in connection with construction in a Quiet Zone.	Sect. 3, Table 3-1 (16)	\$ 100.00
32	The operation of any equipment in connection with construction in a Residential Area.	Sect. 3, Table 3-1 (16)	\$ 100.00
33	The operation or use of any tool for domestic purposes other than snow removal in a Quiet Zone.	Sect. 3, Table 3-1 (17)	\$ 100.00
34	The operation or use of any tool for domestic purposes other than snow removal in a Residential Area.	Sect. 3, Table 3-1 (17)	\$ 100.00
35	The operation of solid waste bulk lift or refuse compacting equipment in a Quiet Zone.	Sect. 3, Table 3-1 (18)	\$ 100.00
36	The operation of solid waste bulk lift or refuse compacting equipment in a Residential Area.	Sect. 3, Table 3-1 (18)	\$ 100.00
37	The operation of a commercial car wash in a type other than mentioned in item 10 in a Quiet Zone.	Sect. 3, Table 3-1 (19)	\$ 100.00
38	The operation of a commercial car wash in a type other than mentioned in item 10 in a Residential Area.	Sect. 3, Table 3-1 (19)	\$ 100.00
39	The sound from or created by any radio or any musical or sound producing instrument of whatever in a Quiet Zone.	Sect. 3, Table 3-1 (20)	\$ 100.00
40	The sound from or created by any radio or any musical or sound producing instrument of whatever in a Residential Area.	Sect. 3, Table 3-1 (20)	\$ 100.00
41	Sound resulting from racing or any motorized conveyance other than in a racing event regulated by law.	Section 2 (1)	\$ 100.00
42	Sound resulting from the operation of a motorized vehicle in such a way causing the tires to squeal.	Section 2 (2)	\$ 100.00
43	Sound resulting from the operation of any combustion engine or pneumatic device.	Section 2 (3)	\$ 100.00
44	Sound resulting from the operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sounds.	Section 2 (4)	\$ 100.00
45	Sound resulting from the operation of an engine or motor.	Section 2 (5)	\$ 100.00
46	Sound resulting from the operation of a motor vehicle horn or other warning device.	Section 2 (6)	\$ 100.00
47	The operation of any item of construction equipment in a Quiet Zone.	Section 2 (7)	\$ 100.00
48	The operation of any item of construction equipment in a Residential Area.	Section 2 (7)	\$ 100.00
49	Persistent barking/calling /whining in agricultural area	Sect. 3, Table 3-1 (9)	\$ 100.00

NOTE: The general penalty provisions for the offences listed above is Section 8 of By-Law 1999/75, a certified copy of which has been filed and s. 61 of the *Provincial Offences Act*, R.S.O. 1990, c. P. 33, as amended