

Corporation of the Town of Moosonee

BY-LAW 20-06

Being a by-law to reduce and control noise and vibration and to amend by-law No. 18-89.

WHEREAS it is expedient to exercise the power conferred upon the Council by the Environment Protection Act, R.S.O. 1980, as amended, and other statutory authority; and,

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

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,

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

BE IT THEREFORE ENACTED by Mayor and Council of the Corporation of the Town of Moosonee, as follows:

1. Interpretation: In this by-law,

(a) Construction: "construction" includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavation, the laying of pipe and conduit whether above or below ground level, street and highway building, concreting, equipment installation and alteration and the structural installation of construction components and materials in any form or form any purpose, and includes any work in connection therewith;

(b) Construction Equipment: "construction equipment" means any equipment or device designed and intended for use is 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: "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: "Council" shall mean the Council of the Corporation of the Town of Moosonee;

(e) Highway: "highway" includes a common and public highway, street, road, avenue, parkway, driveway, square, bridge, viaduct or trestle designed and intended for, or used by, the general public for the passage of vehicles;

(f) Motor Vehicle: "motor vehicle" includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscle 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;

(g) Motorized Conveyance: "motorized conveyance" means a conveyance propelled or driven otherwise than by muscle, gravitational or wind power;

(h) Municipality: "municipality" means the land within the geographic limit of the Town of Moosonee;

(i) noise: "noise" means unwanted sound;

(j) Point of Reception: "point of reception" means any point on the premises of a person where sound or vibration originating from other than those premises is received.

(k) Residential Area: "Residential Area" means any area designated as residential in Zoning By-Laws of the Corporation of the Town of Moosonee;

2. General Prohibitions: No person shall emit or cause or permit the emission of sound resulting from an act listed in Schedule 1 - General Prohibitions, and which sound is clearly audible at a point of reception and is likely to disturb the inhabitants of the Community of Moosonee.

3. Prohibitions by Time and Place: No persons shall emit or cause or permit the emission of a sound resulting from any act listed in Schedule 1, if clearly audible at a point of reception located in an area of the Municipality between the hours of 2300 and 0700 each and every day.

4. Exemption for 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 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 and may include:

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

5. Grant of Exemption by Council

- (a) 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 or may grant the exemption applied for or 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.
- (b) Details of Application for Exemption: The Application mentioned in sub-section (a) shall be made in writing, in duplicate, and shall contain:
 - (i) the name and address of the applicant;
 - (ii) a description of the source of sound or vibration in respect of which exemption is sought;
 - (iii) a statement of the particular provision or provisions of the By-law from which exemption is sought;
 - (iv) the period of time, of a duration not in excess of six months, for which the exemption is sought;

- (v) the reasons why the exemption should be granted;
 - (vi) a statement of the steps, if any, planned or presently being taken to bring about compliance with the By-law; and
 - (vii) proof of publication within the preceding twenty one (21) days, by direct mail to all residents within the Municipality, of a notice of intention to apply for an exemption to this By-law, containing the information required by clauses (i) through (vi) hereof, and further stating the date upon which it is intended that application will be made to Council.
- (c) By-law Enforcement Officer: A copy of the application for exemption shall be delivered to the By-law Enforcement Officer who shall prepare a report to Council, which report shall contain the Officer's opinion on the merits of the application and recommendations as to terms and conditions, if any.
- (d) Decision: In deciding whether to grant the exemption, Council shall consider the application, the report of the By-law Enforcement Officer and any written submission then received by Council and shall give the applicant and any person in support of or opposed to the application an opportunity to be heard and may consider such other matters as it sees fit.
- (e) Breach: A breach by the applicant of any of the terms and conditions imposed by Council in granting an exemption shall immediately render the exemption null and void."

6. Exemptions of Traditional, Festive or Religious Activities: Notwithstanding any provision of this by-law, this by-law does not apply to a person who emits or causes or permits the emission of sound, noise or vibration in connection with any of the following events, exempted because of their traditional, festive, religious or other nature:

- (a) Road or Bicycles races authorized by the Corporation of the Town of Moosonee;
- (b) Parades authorized by the Corporation of the Town of Moosonee;
- (c) Fireworks displays authorized by the Corporation of the Town of Moosonee;
- (d) Midways, circuses, fairs or carnivals authorized by the Corporation of the Town of Moosonee;
- (e) Sporting, Recreational and Entertainment events or musical or other performances in Public Parks or Buildings;
- (f) Special neighbourhood social activities on streets or other public lands authorized by the Corporation of the Town of Moosonee;
- (g) The discharge of Fire Arms by Police Officers acting in the due performance of their duties;
- (h) Transformers and diesel operated equipment owned by Public Works and necessary preventative maintenance work undertaken by Public Works;
- (i) Necessary Town maintenance, including snow clearing, street cleaning and garbage collection, undertaken by the Corporation of the Town of Moosonee.

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 of the provisions of this by-law is guilty of an offense and shall, upon conviction thereof, forfeit and pay a penalty of not more than \$2,000.00 for a first offence and not less than \$100.00 and not more than \$2,000.00 for a second or subsequent offence, exclusive of costs and every such fine is recoverable under The Provincial Offences Act.

9. General: 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 the 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 remain in force.

10. Rescinds Past By-Laws: The passing of this by-law hereby rescinds by-law 18-89, and any other existing by-laws respecting the regulation and prohibition of Noise in the Town of Moosonee.

11. General: This by-law shall come into effect immediately upon Third Reading.

**READ a first and second time
this 28th day of March 2006.**


Mayor - Wayne Taipale


Deputy Clerk - Nathalie G. Forget

**READ a third time and finally passed
this 28th day of March 2006.**


Mayor - Wayne Taipale


Deputy Clerk - Nathalie G. Forget



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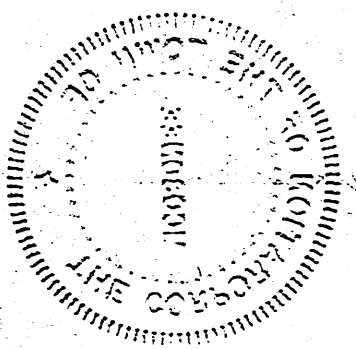
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SCHEDULE 1 – GENERAL PROHIBITIONS

1. Loading, unloading, delivering, packing or unpacking, or otherwise handling any containers, product materials, or refuse, whatsoever, unless necessary for the maintenance of essential services or moving of private household effects.
2. The operation of any construction equipment in connection with construction.
3. 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.
4. Racing of any motorized conveyance other than in a racing event regulated by law.
5. The operation of a motor vehicle in such a way that the tires squeal.
6. 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.
7. 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.
8. The operation or use of any powered or non-powered tool for domestic purposes other than snow removal.
9. 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.
10. The discharge of firearms.
11. The operation of a combustion engine which, (a) is, or (b) is used in, or (c) is intended for use in, a toy, or a model or replica of any device, which model or replica has no function other than amusement and which is not a conveyance.
12. 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.
13. The operation of any motorized conveyance other than on a highway or other place intended for its operation.
14. 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 other than agriculture.
15. Yelling, shouting, hooting, whistling or singing
16. All selling or advertising by shouting or outcry or amplified sound.