

THE CORPORATION OF THE TOWN OF PARRY SOUND

BY-LAW NO: 2009-5301

Being a By-law to prohibit and regulate noise within the municipality and to repeal By-law 80-2856.

WHEREAS the Municipal Act S.O. 2001, c. 25, section 129, provides that a municipality may prohibit and regulate with the respect to noise and vibrations.

WHEREAS the Corporation of the Town of Parry Sound deems it necessary to prohibit and regulate noise within the municipality to ensure a person's right to quiet enjoyment of their property.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF PARRY SOUND ENACTS AS FOLLOWS:

Definitions:

1. In this by-law,

“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, street and highway building, concreting, equipment installation and alteration and the structural installation of construction components and materials in any form or for any purpose and includes any work in connection therewith;

“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, including rock crushing equipment.

“Conveyance” includes a vehicle and other device employed to transport a person or persons or goods from place to place but does not include any such device or vehicle that is operated only within a building.

“Council” means the Council of the Corporation of the Town of Parry Sound.

“Highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, or trestle designed and intended for, or used by, the general public for the passage of vehicles;

“Motorized conveyance” means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;

“Municipality” means the land within the geographic limit of the Town of Parry Sound;

“Noise” unwanted sound or vibrations

“Owner” includes an assessed owner, tenant, occupant or any person having an interest, whether equitable or legal, in the land.

“Person” includes any individual, corporation, partnership, company, association or party and the heirs, executors, administrators, or other legal representative of such person, to whom the context can apply according to law, shall include any group of persons comprising a society or other organization and shall include the plural wherein the context requires. Whenever the word “he” or “him” is used, it shall mean and include the feminine gender whenever the context so requires.

“Point of Reception” means any point on premises where noise is received, which noise originates from any other premise.

Prohibitions

2. No person or owner shall emit or cause or permit the emission of any noise which is clearly audible at a point of reception, resulting from an act listed in Schedule “A”.
3. No person or owner shall within a prohibited time shown in Schedule “B”, emit or cause or permit the emission of any noise which is clearly audible at a point of reception, resulting from a corresponding act listed in Schedule “B.”

General Exemptions

4. Notwithstanding any other provisions of this By-law, it shall be lawful to emit or cause or permit the emission of noise or vibration in connection with any of the activities listed in Schedule “C”.

Exemption Requests

- 5.0 Notwithstanding any other provisions of 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 noise or vibration for which he might be prosecuted and Council, by resolution, may refuse to grant any exemption, agree to grant lesser exemption 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 see fits.
- 5.1 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.
- 5.2 Breach by the applicant of any of the terms or conditions of any exemption granted by Council shall render the exemption null and void.

Severability:

6. 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.

Administration, Enforcement and Inspection:

- 7.0 This By-law shall be administered and enforced by the Municipal Law Enforcement Officer of the municipality or such other person or persons as Council may, by By-law, appoint. Nothing herein shall be deemed to limit the ability of the Ontario Provincial Police or any police force with sufficient jurisdiction to enforce this By-law at any time.
- 7.1 Any Municipal Law Enforcement Officer may enter on any property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the provisions of this By-law have been complied with.

Penalties:

8. Every person who:
 - a) hinders, disturbs or obstructs any Municipal Law Enforcement Officer in carrying out their duties under this By-law, or;

b) contravenes any provision of this By-law is guilty of an offence and, upon conviction is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c P.33 as amended.

9. That By-law 80-2856 as amended is hereby repealed.

10. This By-law shall come into force and take effect upon the date of passing.

READ a FIRST time this 17th day of March, 2009

RICHARD ADAMS, MAYOR

ROB MENS, CLERK

READ a SECOND and THIRD time, **PASSED, SIGNED and SEALED**

this 17th day of March, 2009.

RICHARD ADAMS, MAYOR

ROB MENS, CLERK

SCHEDULE "A" - By-law 2009-5301
Prohibited Acts

1. The operation of any electronic devices intended for the production, reproduction or amplification of sound which includes but not limited to a radio, phonograph, television, public address system, car stereo, sound equipment, loud speaker, musical or sound producing instrument and all similar devices.
2. The operation of any auditory signaling device including but not limited to ringing of bells, gongs, sirens, horns, whistles, motor vehicle horn or other warning device and the production or reproduction of any similar sound by electronic means except where authorized or required by law.
3. Persistent barking, calling, whining or other similar persistent noise-making by any domestic pet or any other animal kept or used for any purpose other than agriculture.
4. Yelling, shouting, hooting or other similar noise made by a human.
5. The use or operation of any drum, horn, bell , radio, or mechanical loudspeaker other instrument or device or apparatus for the purpose of advertising or attracting attention to any performance, show, sale of goods, wares or merchandise.
6. Racing of any motorized conveyance other than in a racing event regulated by law.
7. The operation of any combustion engine or pneumatic device or construction equipment without an effective exhaust or intake muffling device in good working order and in constant operation.
8. The operation of a vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sound due to improperly secured load or equipment or inadequate maintenance.
9. 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, unless:
 - a) 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
 - b) 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 platforms and refuse compactors; or
 - c) 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
 - d) prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine; or
 - e) 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.

Schedule “B” - By-law - 2009-5301
Prohibition by Time

	<u>Prohibited period of time</u>
1. The discharge of fire arms	At all times
2. The operation of a combustion engine which, is, or is used in, or 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	B
3. The operation of any motorized conveyance other than on a highway or other place intended for its operation.	D
4. The venting, release or pressure relief of air, steam, B or other gaseous material, product or compound from any autoclave, boiler pressure vessel, pipe, valve, machine, device or system, other than furnace vents.	B
5. The operation of a commercial car wash with air drying equipment.	B
6. Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, products, materials, or refuse, whatsoever, unless necessary for the maintenance of essential services or the moving of private household effects.	C
7. The operation of any equipment in connection with construction.	A
8. The operation or use of any tool for domestic purposes other than snow removal.	B
9. The operation of solid waste bulk lift or refuse compacting equipment.	B
10. The detonation of explosives when used in construction	A

Prohibited periods of time:

- A - 21:00 hours one day to 07:00 next day and All day Sundays and Statutory Holidays
- B - 21:00 hours one day to 07:00 next day and 09:00 on Sundays & Statutory Holidays
- C - 19:00 hours one day to 07:00 next day and All day Sundays and Statutory Holidays
- D - 19:00 hours one day to 07:00 next day and 09:00 on Sundays & Statutory Holidays

Schedule “C” - By-law 2009-5301
Exemptions

1. The emission of noise or vibration in connection with emergency measures for the immediate health, safety or welfare of the general public or for the preservation or restoration of property, unless noise or vibration is clearly longer duration or its nature more disturbing than is reasonably necessary for the accomplishments of such emergency purpose.
2. The emission of noise or vibration in connection with any of the traditional, festive, religious and other activities listed below:
 - a) The use in a reasonable manner of an apparatus or mechanism for the amplification of the human voice or of music in a public park or recreational are under the control and management of the Town of Parry Sound in connection with any public election meeting, public celebration or other lawful gathering provided that written permission of Council to hold such meeting, celebration or gathering has first been obtained.
 - b) Any band or parade, provided that written permission of Council to operate such band or hold such parade has been first obtained.
 - c) All activities permitted by Council associated with an event authorized by Council.
 - d) Fireworks displayed authorized by the municipality.
3. Necessary municipal operations carried out in the interest of public necessity and convenience, including but not limited to snow clearing and snow removal, street cleaning, and garbage collection, undertaken by or on behalf of the Town.
4. The noise of church bells or chimes normally associated with church activities.
5. The ringing of school bells or the sounding of a public address system on a property owned by the Near North District School Board, The Catholic School Board or a recognized private school