



THE CORPORATION OF THE CITY OF THUNDER BAY

BY-LAW NUMBER 131-2005

A By-law to regulate Noise in the City of Thunder Bay, in the District of Thunder Bay.

Recitals

1. This By-law is passed under the authority of the Municipal Act, 2001, which authorizes municipalities to regulate and prohibit noise and other nuisances.
2. The Corporation recognizes that balance must be achieved between the clash of individual interests that arise in modern municipalities, and that the existence of organized society depends upon the principle of "give and take".
3. It is considered necessary and expedient to replace Chapter 915 of the City of Thunder Bay Municipal Code as adopted by By-law Number 217-1970.

THE COUNCIL OF THE CORPORATION OF THE CITY OF THUNDER BAY ENACTS
AS FOLLOWS:

Article 1.00: Interpretation

1.01 **Definitions:** Wherever a term set out below appears in the text of this By-law with its initial letters capitalized, the term is intended to have the meaning set out for it in this Section 1.01. Wherever a term below appears in the text of this By-law in regular case, it is intended to have the meaning ordinarily attributed to it in the English language.

(a) **By-law** means this By-law, including its recitals and schedules, which form integral parts of it, as amended from time to time.

(b) **Compression Brake**, also known as "engine compression exhaust style brake", refers to a system by which vehicle braking is achieved by using the engine compression stroke to slow the vehicle drive wheels by opening an exhaust valve at or near the end of the compression stroke thereby turning the power-producing engine into a power-absorbing air compressor.

(c) **Construction** means the erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavation, blasting and detonation of explosive devices other than fireworks, 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 for any purpose, including any

associated or related work.

(d) **Construction Equipment** means any equipment or device designed and intended for use in construction or material handling, including: air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers, trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment.

(e) **Corporation** means The Corporation of the City of Thunder Bay, a municipal corporation duly incorporated pursuant to the laws of the Province of Ontario.

(f) **Council** means the elected municipal council of the Corporation.

(g) **Emergency** means a situation or an impending situation, often dangerous, caused by the forces of nature, an accident, an intentional act or otherwise, which arises suddenly and calls for prompt action.

(h) **Motor Vehicle** means an automobile, bus, truck, motorcycle, motor assisted bicycle and any other vehicle propelled or driven other than by muscular power, but does not include a traction engine, farm tractor, other farm vehicle or road-building machine.

(i) **Municipal Law Enforcement Officer** means any person duly appointed to enforce the provisions of this By-law or any member of the Thunder Bay Police Service.

(j) **Municipal Service Vehicle** means a Motor Vehicle operated by or on behalf of the Corporation or a local board of the Corporation while the Motor Vehicle is being used for the construction, repair or maintenance of a highway, including the clearing and removing of snow, the construction, repair, or maintenance of a utility, the collection or transportation of waste, or other municipal purpose.

(k) **Noise** means sound that is unusual or excessive, or that is reasonably unwanted by or disturbing to persons, in the circumstances within which it occurs.

(l) **Premises** means any land or building which is not a Residence.

(m) **Residence** means a room, suite of rooms, or dwelling, operating as a housekeeping unit that is lawfully used as a domicile.

(n) **Thunder Bay** means the geographic area within the jurisdiction of the Corporation.

(o) **Utility** means a system that is used to provide a utility service to the public, including water, sewage, electricity, gas, communications networks and cable services.

(p) **Utility Service Vehicle** means a Motor Vehicle operated by or on behalf of the Corporation, Thunder Bay Hydro, TBayTel, or any of their subsidiaries or other companies or agencies that supply or manage a Utility within Thunder Bay, while the Motor Vehicle is being used for the construction, repair or maintenance of that Utility.

- 1.02 **Legislation, By-laws:** Each reference to Provincial legislation in this By-law, unless otherwise specified, is a reference to the Revised Statutes of Ontario, 1990 edition, and, in every case, includes all applicable amendments to the legislation, including successor legislation. Each reference to another by-law in this By-law, unless otherwise specified, is a reference to a By-law of the Corporation, and, in every case, includes all applicable amendments to the By-law, including successor by-laws.
- 1.03 **Construing this By-law:** The captions, article and section names and numbers appearing in this By-law are for convenience of reference only and have no effect on its interpretation. This By-law is to be read with all changes of gender or number required by the context. The words “**include**”, “**includes**”, “**including**” and “**included**” are not to be interpreted as restricting or modifying the words or phrases which precede them.

Article 2.00: Offences & Exemptions

- 2.01 **General Noise Prohibition:** It is an offence for a person to make, cause or permit the making of Noise within Thunder Bay that is likely to disturb the inhabitants of Thunder Bay.
- 2.02 **Specific Noise Prohibitions:** It is an offence for a person to make, cause or permit the making of Noise within Thunder Bay that is the result of any of the activities described in Schedule “A” and that is audible to:
- (a) A person in a Premises or a Motor Vehicle other than the Premises or Motor Vehicle from which the Noise is originating; or
 - (b) A person in a Residence other than the Residence from which the Noise is originating.
- 2.03 **Specific Noise Prohibitions by Time:** It is an offence for a person to make, cause or permit the making of Noise within Thunder Bay that is the result of any of the activities listed in the table in Schedule “B”, during the days and between the hours specified in Schedule “B” for that activity, that is audible to:
- (a) A person in a Premises or a Motor Vehicle other than the Premises or Motor Vehicle from which the Noise is originating; or

(b) A person in a Residence other than the Residence from which the Noise is originating.

- 2.04 **Compression Brakes:** It is an offence for a person to make, cause or permit the making of Noise through the operation of Compression Brakes on highways within Thunder Bay.
- 2.05 **Exemption for Emergencies:** This By-law does not prohibit Noise reasonably necessary resulting from measures undertaken in an Emergency for the immediate health, safety or welfare of the inhabitants of Thunder Bay or for preservation or restoration of property.
- 2.06 **Permitted Exemptions:** This By-law does not prohibit Noise for which a permit has been granted under Section 3.02, or under Chapter 707 of the Municipal Code.
- 2.07 **Specific Exemptions:** This By-law does not prohibit Noise caused by any one or more of the following activities:
- (a) the operation of Municipal Service Vehicles and related equipment;
 - (b) the operation of Utility Service Vehicles and related equipment;
 - (c) the authorized use of fireworks;
 - (d) special events that are sanctioned or approved by the Corporation, including: festivals, races, parades, midways, exhibitions, circuses, etc.;
 - (e) the operation of bells, chimes, carillons and clocks on churches, schools, or public buildings;
 - (f) cultural, recreational, educational and political events in parks or other public areas that are sanctioned or approved by the Corporation;
 - (g) neighbourhood events on highways or other municipal property that have been sanctioned or approved by the Corporation;
 - (h) aviation activities at Thunder Bay Airport;
 - (i) railway activities; and
 - (j) activities normally associated with a lawful commercial or industrial use unless specifically prohibited elsewhere in this By-law.
- 2.08 **Working Animals:** This By-law does not apply to prohibit persons using hearing-ear dogs, seeing-eye dogs, or other similar working animals, from allowing those animals to make the sounds required of them in the course of their working duties.

Article 3.00: Permit Process

- 3.01 **Permits:** Any person may apply for a permit to obtain an exemption to any activity that is prohibited by this By-law.

- 3.02 **Authority to Issue Permit:** The General Manager of the Development Services Department or his or her designate is authorized to issue a permit pursuant to Section 3.01 unless the granting of the permit would not constitute a reasonable balance between the clash of individual interests that arise in modern municipalities. Permits may be issued upon any conditions that assist in achieving the desired balance of interests.
- 3.03 **Appeal by Applicant:** A person who is denied a permit pursuant to Section 3.02, or who believes that conditions attached to the permit are onerous, may appeal that decision to the Committee of the Whole of Council.
- 3.04 **Appeal by Another Person:** Any person who is aggrieved by the granting of a permit, or the failure to apply conditions to a permit, pursuant to Section 3.02 may appeal that decision to the Committee of the Whole of Council.
- 3.05 **Failure to Abide by Conditions:** Where a person undertakes activity authorized by a permit issued upon conditions in accordance with 3.02 without strictly complying with those conditions, he or she loses the protection of Section 2.06 of this By-law.

Article 4.00: Enforcement & Penalties

- 4.01 **Enforcement:** This By-law may be enforced by any Municipal Law Enforcement Officer, or by way of private information sworn in accordance with the *Provincial Offences Act*.
- 4.02 **Penalties:** Every person who commits an offence under this By-law is, upon conviction, liable to a fine or penalty as provided for in the *Provincial Offences Act*.

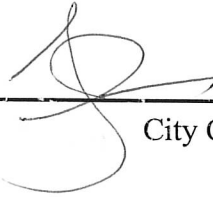
Article 5.00: Miscellaneous Matters

- 5.01 **Repeals:** The following by-laws of the Corporation are repealed:
- (a) Chapter 915 of the Municipal Code; and
 - (b) By-law 217-1970.
- 5.02 **Effective Date:** This By-law shall come into force and take effect upon approval of the set fines associated with it by the Regional Chief Justice in accordance with Part I of the *Provincial Offences Act*, and Rule 6 of Regulation 200 passed pursuant to the *Courts of Justice Act*.

Enacted and passed this 17th day of October, A.D. 2005 as witnessed by the Seal of the Corporation and the hands of its proper Officers.

A handwritten signature in cursive script, appearing to read "Lynn Peterson", written over a horizontal line.

Mayor

A handwritten signature in cursive script, appearing to be a stylized "J" or "G", written over a horizontal line.

City Clerk



Schedule "A"

General Noise Prohibitions

1. Operation of a Motor Vehicle in such a manner that the tires squeal.
2. Operation of a stereo system or other similar device within a vehicle in such a manner that the sound, or vibration caused by the sound, is perceptible outside the vehicle.
3. Operation of a combustion engine or pneumatic device without an effective exhaust muffling device that is in good working order and in constant operation.
4. Operation of any item of Construction Equipment without an effective exhaust muffling device that is in good working order and in constant operation.
5. Operation of a Motor Vehicle in a manner that results in banging, clanking, squealing or similar sounds because of inadequate maintenance or an improperly secured load.
6. Operation of a warning device, including the horn of a Motor Vehicle, except whereby required, or authorized, or in accordance with good safety practices.
7. Operation of any outdoor auditory signaling device (including: outdoor paging systems; the ringing of bells or gongs; the use of sirens, whistles or chimes; or the production, reproduction or amplification of any similar sounds by electronic means) except whereby required or authorized by law or in accordance with good safety practices.
8. Use of any air-conditioning device, pool pump, venting system or fan that results in squealing or any other Noise due to inadequate maintenance or deterioration of its condition.
9. Permitting the persistent barking, calling, whining, or making other Noise, by animals and birds.
10. Operation of an engine or motor, in or on, any vehicle or item of attached auxiliary equipment, for a continuous period of more than five minutes, while such vehicle is stationary, unless:
 - (a) The vehicle is in an enclosed structure constructed so as to effectively prevent the emission of excessive Noise;
 - (b) Continuous operation of the engine or motor is essential to a basic function of the vehicle or equipment, including the operation of ready-mixed concrete trucks, lift platforms, refuse compactors and heat exchange systems, during normal operation; or

- (c) Weather conditions justify the use of heating or refrigeration systems powered by the motor or engine for the safety and welfare of the operator, passengers or animals, or the preservation of perishable cargo.
11. Permitting, causing or making Noise by shouting, yelling or amplified sound for selling for the purpose of advertising .



Schedule "B"

Prohibitions During Specific Times

	Noise-Causing Activity	Prohibited Times
1.	Construction, including the operation of Construction Equipment.	From 11:00 p.m. any day until 7:00 a.m. the following day, unless the following day is a Sunday or a statutory holiday, in which case the prohibition continues until 9:00 a.m.
2.	Operation of any device or group of connected devices intended for the production, reproduction, or amplification of voices or sound.	From 11:00 p.m. any day until 7:00 a.m. the following day, unless the following day is a Sunday or a statutory holiday, in which case the prohibition continues until 9:00 a.m.
3.	Operation of a Motor Vehicle other than on a place intended for its operation.	From 11:00 p.m. any day until 7:00 a.m. the following day, unless the following day is a Sunday or a statutory holiday, in which case the prohibition continues until 9:00 a.m.
4.	Outdoor operation of any powered or non-powered tool for domestic purposes other than snow removal.	From 11:00 p.m. any day until 7:00 a.m. the following day, unless the following day is a Sunday or a statutory holiday, in which case the prohibition continues until 9:00 a.m.
5.	Operation of a pit or quarry.	From 11:00 p.m. any day until 7:00 a.m. the following day, and all day on Sundays and statutory holidays.
6.	Yelling, shouting, hooting, whistling, singing or the playing of musical instruments, including percussion instruments.	From 11:00 p.m. any day until 7:00 a.m. the following day, unless the following day is a Sunday or a statutory holiday, in which case the prohibition continues until 9:00 a.m.