

CORPORATION OF NORTH ALGONA WILBERFORCE TOWNSHIP

BY-LAW 2020-49

Nuisance Noise

Being a By-Law to Regulate Nuisance Noise within North Algona Wilberforce Township.

WHEREAS section 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS section 128(1) of the Municipal Act, 2001 provides that, without limiting sections 9,10 and 11 a local municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council are or could become public nuisances;

AND WHEREAS section 129 of the Municipal Act, 2001 provides that, without limiting sections 9, 10 and 11 of the Act, a local municipality may: (a) prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors;

And WHEREAS section 425 of the Act, a municipality may pass bylaws providing that a person who contravenes a by-law of the municipality passed under this Act is guilty of an offence;

And WHEREAS section 426 of the Act, no person shall hinder or obstruct, or attempt to hinder or obstruct any person who is exercising a power or performing a duty under a by-law passed under this Act;

And WHEREAS section 429 of the Act, a municipality may establish a system of fines for offences under a by-law of the municipality passed under this Act;

And WHEREAS section 436 of the Act, a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether a by-law of the municipality passed under the Act is being complied with;

And WHEREAS it is in the public interest to ensure and maintain moderate noise levels within North Algona Wilberforce Township consistent with its character, so as to preserve, protect and promote the public health, safety, welfare and peace and quiet of the residents of the said Township and to regulate and control public nuisances:

NOW THEREFORE, the Council of the Corporation of North Algona Wilberforce Township hereby enacts as follows:

1.0 DEFINITIONS

- a) **"Agricultural operation"** means and includes agricultural, aqua cultural, horticultural or silviculture operations that are carried on in the expectation of gain or monetary reward;
- b) **"Construction"** means, but is not limited to, 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, application of concrete, 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 with construction;
- c) **"Construction equipment"** means any equipment or device designed and intended for use in construction or material handling, including, but not limited to, hand tools, power tools, 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;
- d) **"Conveyance"** includes a vehicle and any other device employed to transport a person or persons
- e) **"Emergency"** means an urgent matter relating to the immediate health, safety, or welfare of the residents of the Township or the operator of the Vehicle.
- f) **"Excessive Noise"** includes any sound which, in the opinion of a municipal law enforcement officer, police officer, or any other person appointed to carry out enforcement of this bylaw, is of such loud volume, excessive, alarming, or unusual, or is continuous in duration that it creates a nuisance, is likely to disturb the inhabitants of any dwelling and without limiting the generality of the foregoing.

- g) **"Fireworks"** means a device containing combustibles or explosives that, when ignited, produce a brilliant display of light and/or a loud noise.
- h) **"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.
- i) **"Motor vehicle"** means an automobile, motorcycle, motor assisted bicycle and any other vehicles propelled or driven other than by muscular power.
- j) **"Motorized conveyance"** means a conveyance propelled or driven by other than muscular, gravitational or wind power and includes a motor vehicle.
- k) **"Municipal Law Enforcement Officer"** means a Municipal Law Enforcement Officer for North Algona Wilberforce Township.
- l) **"Noise"** means unwanted sound.
- m) **"Owner"** means an assessed owner, tenant, occupant, or any person having an interest whether equitable or legal, in the land.
- n) **"Persistence"** means continuing to exist or endure over a prolonged period of time, continuously or intermittently for an aggregate period of at least 20 minutes out of any 60-minute period.
- o) **"Point of Emission"** means any place, point, person, animal, object, or otherwise, from which a sound is emitted.
- p) **"Point of Reception"** means any point on the premises of a person where noise originating from other than those premises is received.
- q) **"Power Device"** Means any power device used in the servicing, maintenance or repair of any premises including without limitations, chain saws, power tools, lawnmowers, leaf blowers, edge trimmers, line trimmers, rototillers, pressure washers and carpet cleaning equipment and specifically excluding devices driven by muscular power and snow blowers.
- r) **"Public Nuisance"** means any noise that is artificially created on a property that, by reason of volume or intensity is out of character with the surrounding environment, causes, or might reasonably be expected to cause, interference with or loss of the reasonable use and enjoyment of another property by the owner or occupant of that property;
- s) **"Premises"** means the area within the boundaries of any legal parcel of land and any building or structure situated within such boundaries, provided however that where a building or structure contains more than one unit of commercial, industrial or residential occupancy, each unit, the common areas of the building or structure, and the land within the boundaries of the lot, shall be deemed to be separate premises.
- t) **"Residents"** means one or more persons who reside permanently or transiently in the Township.

2.0 PROHIBITIONS

- 2.1 No owner shall emit, cause or permit the creation, presence or existence of any excessive noise or unusual sound that disturbs or are likely to disturb any inhabitant of North Algona Wilberforce Township as outlined in Schedule "A" attached;
- 2.2 Section 2.1 does not apply to the exceptions or circumstances as outlined in Schedule "B" attached.

3.0 FACTORS FOR THE DETERMINATION OF EXCESSIVE NOISE

- 3.1 Factors for determining whether a noise is unreasonably loud or excessive include, but are not limited to the following:
 - a) The land use, nature, and zoning of the area from which the noise emanates and the area where it is received or perceived.
 - b) The time of day or night that the noise occurs.
 - c) The duration and volume of the noise.
 - d) The nature of the noise.
 - e) Whether the noise is recurrent, intermittent, or constant.
 - f) The nature of the event or activity from which the noise emanates.

- 3.2 The determination of whether a sound or noise is excessive shall be determined by Municipal Law enforcement Officer, police officer, or any other person appointed to carry out enforcement of this bylaw.

4.0 EXEMPTIONS

- 4.1 This By-Law shall not bind North Algona Wilberforce Township or any local board of the Township, the Province of Ontario, the Government of Canada or any of its respective agents.
- 4.2 Despite other provisions of this By-Law, this By-Law shall not apply to a person who emits or causes or permits the emission of noise, sound or vibration in connection with any activities listed in Schedule "B"; or any situation where it can be clearly shown that reasonable efforts to address, ameliorate, or otherwise deal with a situation have been taken and that the shutting off or termination of the source of the noise would cause a situation affecting the health or safety of an individual.

5.0 EXTENSION OF HOURS FOR OUTDOOR EVENTS

- 5.1 The Township may, upon written application, grant permission to extend the hours during which amplification equipment may be used at an outdoor public or private event.
- 5.2 The Township in exercising its authority pursuant to subsection (5.1), the Township may grant its permission with or without conditions.

6.0 RIGHT OF ENTRY

- 6.1 An officer may at any reasonable time, enter onto land to determine whether this By-law is being complied with.
- 6.2 Every owner shall permit the Officer to inspect any land for the purposes of determining compliance with this By-law.
- 6.3 Notwithstanding any provision of this By-law, an Officer shall not enter or remain in any room or place actually being used as a dwelling, unless;
- a) the consent of the occupier is obtained, the occupier first having been informed that the right of entry may be refused and, if refused, may only be made under the authority of a warrant issued under the Provincial Offences Act, R.S.O. 1990, as amended.

7.0 OBSTRUCTION

- 7.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this By-law.
- 7.2 Any person who has been alleged to have contravened any of the provisions of the By-law, shall identify themselves to the Officer upon request, failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of his or her duties.

8.0 APPLICATION OF STRICTEST STANDARD

- 8.1 Where a source of noise is subject to more than one provision of this By-Law, the most restrictive provision shall prevail.

9.0 PENALTY

- 9.1 Every person who fails to comply with a notice made under this By-law is guilty of an offence.
- 9.2 It shall be an offence for a person to hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under the Municipal Act, 2001, as amended, or under a by-law passed under the Municipal Act, 2001, as amended.
- 9.3 Any person who has been alleged to have contravened any of the provisions of a by-law passed under the Municipal Act, 2001, as amended shall identify themselves to the Officer upon request. Failure to do so shall be deemed to have obstructed or hindered the Officer in the execution of the Officer's duties.

- 9.4 Every person who contravenes any section of this by-law is guilty of an offence, and upon conviction shall be liable to a fine as provided for in the Provincial Offences Act, R.S.O 1990, Chapter P.33, as amended.
- 9.5 Upon conviction any penalty imposed under this By-law may be collected under the authority of the Provincial Offences Act, R.S.O. 1990, Chapter P.33, as amended.

10.0 SEVERABILITY

- 10.1 Each clause of this By-Law is an independent clause and the holding of any clause or part of any clause to be void or ineffective for any cause shall not be deemed to affect the validity of any other clause of parts of any clause.

11.0 REPEALS

- 11.1 that by-law 2007-24 be repealed in its entirety.

12.0 EFFECTIVE DATE

- 12.1 This By-Law shall come into force and take effect immediately upon the passing thereof by the Council of the Corporation of North Algona Wilberforce Township.

READ A FIRST AND SECOND TIME THIS 05th DAY OF May 2020.

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MAYOR James Brose	CAO/ACTING CLERK Andrew Sprunt

READ A THIRD TIME AND PASSED THIS 05th DAY OF May 2020.

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MAYOR James Brose	CAO/ACTING CLERK Andrew Sprunt

NORTH ALGONA WILBEFORCE TOWNSHIP

Schedule “A” To By-Law No. 2020-49

Being a By-Law to Regulate Nuisance Noise

Without limiting the generality of Section 2.1, the following are deemed to be noises that will disturb or are likely to disturb an inhabitant of North Algona Wilberforce Township.

- a. The operation of any auditory signaling device, including but not limited to the ringing of bells or gongs, blowing, or sounding of horns or sirens or whistles, or the production, reproduction, or amplification of any similar sound.
- b. The noise made by persistent yelling, shouting, screaming, hooting, whistling, or singing.
- c. The noise or sound made or created by 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 music, speech, or other sounds which may include but is not limited to, radios, phonographs, stereos, televisions, public address systems, sound equipment, loud speakers, musical or a sound producing instruments or device of any kind which disturbs the peace, quiet, comfort or repose of the resident of the community and which noise is clearly audible at a point of reception.
- d. The noise created from crowd-related noise emanating from a gathering of individuals on a property or premise, including without limitation, parties, music festivals, concerts, weddings, and other privately hosted events.
- e. Fireworks or any similar devices, outside of the permitted-on weekends and statutory holidays from dusk until 11:00pm.
- f. The operation of any electrical or combustion engine which is, or is intended for the use in any toy or a model or replica which has no function other than that of amusement and which is not a conveyance, including but not limited to remote control vehicles, boats, planes and drones.
- g. Persistent barking, calling, whining, crowing, cries, or other such noises made by domestic pet or any other animal kept or used for any purpose other than agriculture. The owner or person having the bird or animal under their control when the noise was generated is liable for the noise causing the disturbance.
- h. Excessive noise from a motor vehicle, which includes the revving of engines, honking of horns, banging of doors, or squealing of tires.
- i. Racing of any motorized conveyance other than in a racing event regulated by law.
- j. The operation of a motor vehicle where there is a modified exhaust system in place, or no exhaust system, to create excessive noise.
- k. The operation of a motor vehicle where the trailer hitch creates a banging, clanking, squealing, or other like sound due to an improperly secured load, equipment, or inadequate maintenance.
- l. The operation of an engine or motor in, or on any motorized conveyance or item of attached auxiliary equipment to idle for a period exceeding 15 minutes while such vehicle is stationary, unless:
 - i) The original manufacturer specifically recommends a longer idling period for normal and efficient operation, for which the recommended period shall not be exceeded; or
 - ii) The operation of such engine or motor is essential to the basic function of the vehicle equipment including, but not limited to, operation of ready mixed concrete trucks, lift platforms, refuse compactors, heat exchange systems; 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 for the preservation of perishable cargo.
 - iv) Idling is necessary for the purpose of cleaning and flushing the radiator and associated circulation system for the seasonal change of antifreeze, cleaning of the fuel system, carburetor or the like, when such work is performed other than for profit.
 - v) Prevailing low temperatures make longer idling periods necessary, immediately after starting the motor or engine.

- m. The operation of any construction vehicle or construction equipment in connection with the demolition or restoration of any building, structure, highway, motor vehicle, steam boiler, or other engine or machine, within 150 meters of an occupied dwelling house on any day between the hours of 10:00pm and 7:00am the next day, except Sundays, when no noise shall be created before the hour of 9:00am and no such noise shall be made after 8:00pm.
- n. Noise from the use of any lawn maintenance equipment or power equipment such as chainsaws, leaf blowers, power tools or other similar devices where the noise tends to disturb the inhabitants of the neighborhood or persons in the vicinity, between the hours of 9:00pm and 8:00am the next day.
- o. Any unwanted or meaningless sound that in the opinion of the Municipal Law Enforcement Officer is likely to disturb the inhabitants of North Algona Wilberforce Township.

NORTH ALGONA WILBEFORCE TOWNSHIP

Schedule “B” To By-Law No. 2020-49

Being a By-Law to Regulate Nuisance Noise

EXEMPTIONS

The following activities are exempt from all sections of this By-Law:

- (1) Operation of authorized emergency vehicles including but not limited to police vehicles, fire trucks, and ambulances.
- (2) Operation of Municipal, County or Provincial service vehicles and related equipment performing snow removal or public maintenance.
- (3) Snow removal equipment.
- (4) Agricultural operations, agricultural processing activities, forestry operations and the operation of sawmills.
- (5) The ringing of fire or burglar alarms.
- (6) Noise emanating from a fuel powered generator being operated in case of an emergency or power outage.

NORTH ALGONA WILBEFORCE TOWNSHIP

Part I Provincial Offences Act

By-Law No. 2020-49 By-Law to Regulate Nuisance Noise

Schedule “C” – Set Fines

Item Number	Column 1 – Short Form Wording	Column 2- Provision Creating or Defining Offence	Column 3 – Set Fines
1.	Create excessive noise using auditory signaling devices	Section 2.1 Schedule A (a)	\$85.00
2.	Yell/whistling /cause excessive noise to disturb a person	Section 2.1 Schedule A (b)	\$85.00
3.	Create excessive noise from electrical devices, radio, television etc.	Section 2.1 Schedule A (c)	\$85.00
4.	Create excessive crowd related noise	Section 2.1 Schedule A (d)	\$85.00
5.	Noise from detonating or discharging a firework, or any other similar device after 11:00pm	Section 2.1 Schedule A (e)	\$300.00
6.	Noise from the Operation an electrical or combustion engine toy or model during prohibited times	Section 2.1 Schedule A (f)	\$85.00
7.	Permit excessive noise created by a domestic animal	Section 2.1 Schedule A (g)	\$85.00
8.	Create excessive noise from a motor vehicle	Section 2.1 Schedule A (h)	\$85.00
9.	Noise from racing a motor conveyance	Section 2.1 Schedule A (i)	\$300.00
10.	Operate a motor vehicle where there is a modified exhaust system/no exhaust system to create excessive noise	Section 2.1 Schedule A (j)	\$250.00
11.	Operate a motor vehicle where the trailer hitch creates banging/clanking or squealing noise	Section 2.1 Schedule A (k)	\$85.00
12.	Noise from idling a motor conveyance for more than fifteen (15) minutes	Section 2.1 Schedule A (l)	\$85.00
13.	Noise from operation any construction equipment/vehicle during restricted hours	Section 2.1 Schedule A (m)	\$85.00
14.	Create excessive noise from the operation of lawn maintenance or power equipment during restrictive hours	Section 2.1 Schedule A (n)	\$85.00
15.	Emit/cause noise likely to disturb inhabitants of North Algona Wilberforce Township	Section 2.1 Schedule A (o)	\$85.00
16.	Hinder or obstruct, or attempt to hinder or obstruct, any Officer	Section 7.1	\$300.00

Note: The penalty provision(s) for the offences indicated above is Section 9.4 of By-law 2020-49 a certified Copy of which has been filed and s.61 of the Provincial Offences Act, R.S.O. 1990, c. P.33