

**CORPORATION OF THE MUNICIPALITY OF WEST PERTH**

**BY-LAW NO 30-2005**

**A By-law of the Corporation of the Municipality of West Perth  
to regulate and control noise**

WHEREAS the Municipal Act, 2001, S.O. 2001, Chapter 25, Section 129 (1) provides that by-laws may be passed by the Councils of local municipalities for prohibiting or regulating noise and vibration within the municipality;

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 might degrade the quality and tranquility of their life or cause nuisance; and

WHEREAS it is the policy of the Council of the Municipality of West Perth to reduce and control such sound and vibration;

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

1. That By-law 111-1998 is hereby repealed;
2. Interpretation  
In this By-law,  
(a) Construction.

AConstruction@ 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 alternation and the structural installation of construction components and materials in any form or for any purpose, and includes any work in connection therewith;

(b) Construction Equipment

AConstruction 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

AConveyance@ 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

ACouncil@ means the Council of the Corporation of the Municipality of West Perth

(e) Highway

AHighway@ 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

AMinister@ means Minister of the Environment;

(g) Ministry

AMinistry@ means Ministry of the Environment;

(h) Motor Vehicles

AMotor vehicles@ 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

AMotorized Conveyance@ means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;

(j) Municipality

AMunicipality@ means the land within the geographic limit of the Corporation of the Township of West Perth;

(k) Noise

ANoise@ means unwanted sound;

(l) Point of Reception

APoint of Reception@ means any point of the premises of a person where sound or vibration originating from other than those premises is received;

(m) Premises

APremises@ means building and lands appurtenant thereto;

(n) Zones

In this By-law,

(i) Residential Area

AResidential Area@ means those areas of the municipality specified as follows:

AAny zone designated as AResidential@ by a By-law passed pursuant to the Planning Act.

(ii) Agricultural Area

AAgricultural Area; means those areas of the municipality being used for a bonafide agricultural purpose.

3. General Prohibitions

No person shall emit or cause or permit the emission of sound resulting from the following acts, and which sound is clearly audible at the 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 that the tires squeal.
3. The operation of any combustion engine or pneumatic device Without proper exhaust or intake muffling devices meeting specifications of the manufacturer 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 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 platforms 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 anti-freeze, 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.
7. The operation of any item of construction equipment in a residential area without proper muffling devices meeting specifications of the manufacturer in good working order and in constant operation.

4. Prohibitions by Time and Place

No person shall emit or cause or permit the emission of sound resulting from any act listed in Schedule AA@ to this By-law, if clearly audible at a point of reception located in an area of the municipality indicated within a prohibited time shown for such an area.

5. Exemption

Public Safety

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

- (a) for the immediate health, safety or welfare of the inhabitants 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 reasonable necessary for the accomplishment of such emergency purpose.

6. 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 or may grant the exemption applied for or any exemption of lesser effect and any exemption granted shall specify the time period 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 consider the application and any written submission then received by Council and made by the applicant and the Council 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.

7. 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 following listed traditional, festive, religious and other activities:

- (1) Any activity by a religious congregation or religious organization and dedicated exclusively to worship and related religious, social and charitable activities.

- (2) Any activities as may be necessary for the construction and maintenance of any public works.
- (3) Any activity sponsored or approved by the Mitchell Agricultural Society.
- (4) Any activity of a Service Club that is operating for fund raising purposes for community benefit as may be approved by Council.

8. Industrial Exemption

Notwithstanding any other provision of this By-law, this By-law does not apply to a person or industry who emits or causes or permits the emission of sound or vibration in connection with an established industrial function.

9. Agricultural Exemption

Notwithstanding any other provision of this By-law, this By-law does not apply to a person or agricultural procedure who emits or causes or permits the emission of sound or vibration in connection with an established agricultural function.

10. Severability

If a court of competent jurisdiction should declare any section or part of a section of the 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.

11. Penalty

Every person who contravenes any of the provisions of this by-law is guilty of an offence and shall, upon conviction thereof, forfeit and pay a set fine, and every such fine is recoverable under the Provincial Offences Act, R.S.O. 1990 Chapter P33.

By-Law read a first and second time this 21<sup>st</sup> day of March, 2005

By-law read a third time and finally passed this 21<sup>st</sup> day of March, 2005

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John Van Bakel, Mayor

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Patricia Taylor, Clerk

SCHEDULE "A" TO BY-LAW NO. 30-2005

PROHIBITIONS BY TIME AND PLACE  
(Section 3)

	PROHIBITED PERIOD OF TIME <u>Residential Area</u>
1. The detonation of fireworks or explosive not used in construction	At all times, except fireworks on Victoria Day and Canada Day
2. Discharge of firearms in any residential area	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 of any device, which model or replica has no function other than amusement and which is not a conveyance.	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.	2100 hours one day to 0700 the next day
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 productions, reproduction or amplification of any similar sounds by electronic means except where required or authorized by law or in an accordance with good safety practices.	2100 hours one day to 0700 the next day and all day Sunday and and Statutory holidays
6. The operation of any motorized conveyance other than on a highway or other place intended for its operation.	2100 hours one day to 0700 the next day
7. 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.	At all times
8. Excessive yelling, shouting, hooting, whistling or singing.	At all times
9. All selling or advertising by shouting or outcry or amplified sound.	All day Sunday and statutory holidays and 1900 hours one day to 0700 the next day.
10. Loading, unloading, delivering, packing	2100 hours one day to 0700 the

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. next day

11. The operation of any equipment in connection with construction 2100 hours one day to 0700 the next day

12. The operation or use of any tool for domestic purposes other than snow removal. 2100 hours one day to 0700 the next day

13. Cause or allow the emission of any unreasonable or unusual noise or vibration by means of the use or operation of any electrical motor, electrical, mechanical, hydraulic or pneumatic device, internal combustion engine or other mechanical or like device within a residential area. 2100 hours one day to 0700 the next day