

# THE CORPORATION OF THE TOWN OF ATIKOKAN

## By-law No. 05-14

### A by-law to Prohibit and Regulate Noise

**WHEREAS** *The Municipal Act, R.S.O. 2001 as amended*, confers on municipal councils general and specific powers to contract;

**AND WHEREAS** Council deems it expedient to exercise its general powers conferred upon Council by section 129 of the *Municipal Act, R.S.O. 2001 as amended*, to prohibit and regulate noise.

**AND WHEREAS** the citizens of the Town of Atikokan have a right to and should be ensured of an environment free from unusual, unnecessary or excessive sound which may degrade the quality and tranquility of their life or cause nuisance;

**NOW THEREFORE**, The Corporation of the Town of Atikokan **ENACTS AS FOLLOWS**:

#### 1. INTERPRETATION AND DEFINITION

1.1 In this By-law unless the context shall otherwise require:

- (a) "Audio Device" any radio, television, stereo or musical sound producing instrument or device of any kind.
- (b) "Clerk" shall mean the Clerk for the Corporation of the Town of Atikokan or his or her designate.
- (c) "Construction" includes erection, alteration, repair, dismantling, demolition, maintenance, painting, or moving of a building or structure, the clearing, grading or excavation of land, the moving of earth, the laying of pipe or conduit whether above or below ground level, the building of a highway or street and any work conducted in connection therewith.
- (d) "Construction Equipment" meaning 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.
- (e) "Council" means the Council of the Corporation of the Town of Atikokan.
- (f) "Domestic Animal" means an animal harboured by and cared for by a human being.
- (g) "Emergency Vehicle" shall mean a land ambulance, fire department vehicle, police services vehicle and any other motor vehicle being used to respond to an emergency.
- (h) "Enforcement Officer", a Municipal Law Enforcement Officer, a By-Law Enforcement Officer, or a Police Officer.
- (i) "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.
- (j) "Motor Vehicle" includes any means of transport propelled or driven otherwise than by muscular, gravitational or wind power which does not operate exclusively upon rails.
- (k) "Municipality" means The Corporation of the Town of Atikokan and all lands associated therewith.
- (l) "Noise" means any sound which is of such volume or nature that it does, or is likely to disturb any of the inhabitants of the Municipality of Atikokan.

- (m) "Point of Reception" is any point on any property or premises other than the property or premises on which the noise originates.
- (n) "Residential Area" means those areas of the municipality specified as shown in the current zoning by-law map for the Town of Atikokan.
- (o) "Special Event" Any demonstration, parade, sporting event, festival, carnival, midway, street dance, block party and any other function that Council deems to be a Special Event.

## **2. GENERAL PROHIBITIONS**

- 2.1 No person shall emit or cause or permit the emission of an Unwarranted Noise at any time when the Noise emitted is clearly audible at a Point of Reception resulting from:
- (a) The sound of any Audio Device, Signal Device or Transmitting Device;
  - (b) Persistent barking, calling, whining or other similar persistent noisemaking by any domestic animal or pet, or any other animal other than those animal used for agricultural purposes;
  - (c) The detonation of fireworks;
  - (d) The use of compression brakes.

## **3. PROHIBITED PERIOD OF TIME**

- 3.1 No person shall emit, cause or permit the emission of any Unwarranted Noise not otherwise specified in this By-Law between the hours of 11:00 p.m. and 7:00 a.m., Monday through Sunday.
- 3.2 No person shall emit, cause or permit the emission of any Unwarranted Noise created by the use or operation of any Audio Device, Signal Device or Transmitting Device between the hours of 11:00 p.m. to 7:00 a.m. if the Noise is clearly audible at a Point of Reception.
- 3.3 No person shall emit, cause or permit the emission of any Unwarranted Noise resulting from the act of construction or the use of construction equipment between the hours of 11:00 p.m. to 7:00 a.m.

## **4. REGULATING NOISE**

- 4.1 No person shall, during the times specified in Schedule A, make, cause or permit the making of noise within the Town of Atikokan that is a result of any of the activities described in Schedule A that is audible at a point of reception.

## **5. EXEMPTIONS**

- 5.1 Section 2 shall be deemed not to apply to noise resulting from an activity if:
- (a) It is the result of measures undertaken in an emergency or by emergency vehicles;
  - (b) It is caused by municipal service vehicles;
  - (c) It is undertaken primarily for religious activities; or
  - (d) A permit has been issued for the activity pursuant to Section 6 (c) and the conditions of the permit are complied with as per Schedule "B".

## **6. PERMITS**

- 6.1 The Clerk is designated to review and if deemed expedient and not contrary to the interest of the community, to authorize an exemption from this By-Law.
- 6.2 All exemptions shall be in writing, and shall set out particulars of the proposed activity, the area of the Municipality likely to be affected and the days and times for which the exception is requested.
- 6.3 Council may grant an exemption under this By-Law on such terms and with such conditions or restrictions as she or he deems appropriate.

## **7. ENFORCEMENT, OFFENCE AND PENALTY**

- 7.1 This By-Law shall be enforced using the powers granted to municipalities under Part XIV of the Municipal Act, including sections 425 (1).
- 7.2 Every person who contravenes any provision of the By-Law is guilty of an offence and, if convicted, is liable to a fine as provided for in the Provincial Offences Act, R.S.O. 1990, c.P.33.
- 7.3 The Municipality shall make application to the Ministry of the Attorney General of Ontario for approval of Short Form Wordings and Set Fines in accordance with the Set Fine Schedule. Such fines shall come into effect upon the approval or amendment by the Attorney General of Ontario or his or her designate.
- 7.4 Staff shall be authorized to make changes to the By-Law or Set Fine Schedule without amendment to the By-Law or Resolution of Council, if so recommended by the Attorney General or his or her designate in order for the Set Fines to be approved.
- 7.5 Council may, by Resolution, amend the Set Fines under this By-Law at any time. Any amendment made to the Set Fines by Resolution of Council will come into force upon approval of the Attorney General or his or her designate.

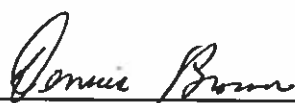
## **8. SEVERABILITY**


- 8.1 If any provision or part of a provision of this By-Law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-Law or its application in any other circumstances, shall not be affected and shall continue to be in full force and effect.

By-Law No. 07-96 and By-Law No. 31-96 and By-Law No. 54-13 and any other Municipal By-Laws that prohibit or otherwise regulate noise are hereby rescinded.

This By-Law shall come into force and take effect upon approval by the Attorney General or his or her designate of the Set Fines established under this By-Law.

READ A FIRST, SECOND AND THIRD TIME and FINALLY PASSED THIS 27<sup>th</sup> DAY OF January, 2014.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
Clerk

## By-Law No. 05-14 – Schedule “A”

*Prohibitions Summarized (As per Section 2.0 and 3.5)*

<b>Section</b>	<b>Activity</b>	<b>Prohibited Period of Time</b>
2.1 (a)	The sounding of any Audio Device, Signal Device or Transmitting Device that is Unwarranted and clearly audible at a Point of Reception	At all times
2.1(b)	Persistent barking, calling whining, or other similar persistent noise-making by any domestic animal or pet, or any other animal other than those animal used for agricultural purposes that is Unwarranted and clearly audible at a Point of Reception	At all times
2.1 (c)	The detonation of fireworks that is Unwarranted and clearly audible at a Point of Reception	At all times
2.1 (d)	The use of compression brakes that is Unwarranted and clearly audible at a Point of Reception.	At all times
3.1	Any Unwarranted Noise not otherwise specified in this By-Law.	11:00 p.m. to 7:00 a.m. Monday through Sunday
3.2	The noise created by the use of operation of any Audio Device, Signal Device or Transmitting Device	11:00 p.m. to 7:00 a.m.
3.3	The engaging in construction and/or the use of construction equipment that is Unwarranted and clearly audible at a Point of Reception	11:00 p.m. to 7:00 a.m.

**By-Law No. 05-14 – Schedule “B”**

**Application for Exemption**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DETAILS**

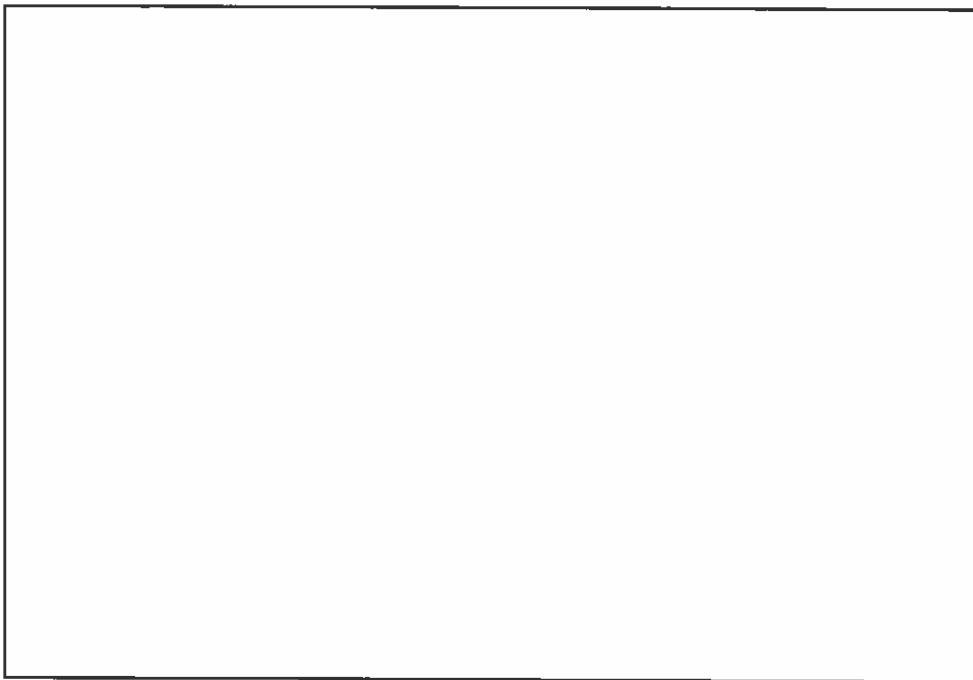
DAY OF EVENT \_\_\_\_\_

PURPOSE OF EVENT \_\_\_\_\_

PLACE OF EVENT \_\_\_\_\_

TIME(S): FROM \_\_\_\_\_ a.m./p.m. TO \_\_\_\_\_ a.m./p.m.

DIAGRAM:



Please show distance from nearest structure/neighbour

Approved by Council by resolution number \_\_\_\_\_ on

this \_\_\_\_\_ day of \_\_\_\_\_, 20 .

\_\_\_\_\_  
Signature of Authorized Person

CORPORATION OF THE TOWN OF ATIKOKAN  
 BY-LAW NO. 05-14 – NOISE CONTROL BY-LAW  
 PART 1 OF THE PROVINCIAL OFFENCES ACT

Item No.	Column 1 – Short Form Wording	Column 2 – Provision Creating or Defining Offence	Column 3 – Set Fine
1	Emit, cause or permit unwarranted noise by sounding of Audio, Signal, or Transmitting Device	2.1 (a)	\$150.00
2	Emit, cause, or permit persistent domestic animal/pet noises	2.1 (b)	\$150.00
3	Emit, cause, or permit noise from denotation of fireworks	2.1 (c)	\$150.00
4	Emit, cause or permit noise from use of compression brakes	2.1 (d)	\$150.00
5	Emit, cause, or permit unwarranted noises on Monday through Sunday between 11:00 p.m. and 7:00 a.m.	3.1	\$150.00
6	Emit, cause or permit noise by use of Audio, Signal or Transmitting Device between 11:00 p.m. and 7:00 a.m.	3.2	\$150.00
7	Emit, cause or permit unwarranted noises related to construction between 11:00 p.m. and 7:00 a.m.	3.3	\$150.00

Note: The penalty provision for the offences indicated above is Section 7.2 of By-Law No. 05-14, a certified copy of which has been filed.