

THE CORPORATION OF THE TOWN OF ESPANOLA

BY-LAW NO. 1189-96

Being a By-law to Control
Noise

WHEREAS it is expedient to exercise the power conferred upon the Council by the Environmental Protection Act, 1990, as amended, and other statutory authority; and

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 may degrade the quality and tranquillity of their life or cause nuisance; and

WHEREAS it is the policy of the Council to reduce and control such sound or vibration;

NOW THEREFORE, the Council of the Corporation of the Town of Espanola Enacts as follows;

1. Interpretation

In this by-law,

(a) Construction

"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 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, and includes any work in connection therewith;

(b) Construction Equipment

"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, trenches, 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

"conveyance" 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

"Council" means the Council Corporation of the Town of Espanola.

(e) Highway

"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;

(f) Minister

"Minister" means Minister of Environment and Energy;

(g) Ministry

"Ministry" means Ministry of Environment and Energy;

(h) Motor Vehicles

"motor vehicle" 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 vehicle running only upon rails, or a motorized snow vehicle, traction engine, arm tractor, self-propelled implement of husbandry or road-building machine within the meaning of the Highway Traffic Act;

(i) Motorized Conveyance

"motorized conveyance" means a conveyance propelled or driven otherwise than by muscular, gravitational, or wind power.

(j) Municipality

"municipality" means the land within the geographic limit of the Town of Espanola.

(k) Noise

"noise" means unwanted sound;

1. Interpretation

(1) Point of Reception

"point of reception" means any point on the premises of a person where sound or vibration originating from other than those premises is received.

Zone in this By-law

(a) Residential Area

"residential area" means those areas of the municipality specified as follows:

All areas zoned as R-1 (Residential First Density)
R-2 (Residential Second Density)
R-3 (Residential Third Density)
RT (Mobile Home Park)
RE (Estate Residential)
I (Institutional)
RU (Rural)

In the Comprehensive Zoning By-law No. 1100 of the Town of Espanola.

(b) Quiet Zone

"quiet zone" means those areas of the municipality within 50 metres of buildings specified as follows: hospitals, schools, funeral parlours, churches, senior citizens units, institutional units.

2. General Prohibition

No person shall emit or cause or permit the emission of sound resulting from an act listed herein, and which sound is clearly audible at a 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 effective exhaust or intake muffling devices 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 like sound 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 items of attached auxiliary equipment for a continuous period exceeding five minutes, while such vehicle is stationary in a Residential Area or Quiet Zone 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 or 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 systems for seasonal change of antifreeze, cleaning of the fuel systems, carburettor 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 or in accordance with good safety practices.
- (7) The operation of any items of construction equipment in a Quiet Zone or Residential Area without effective muffling devices in good working order and in constant operation.

3. Prohibitions by Time and Place

No person shall emit or cause or permit the emission of sound resulting from any act listed in Table 3-1 if clearly audible at a point of reception located in an area of the municipality indicated within the prohibited time shown for such an area.

TABLE 3-1

PROHIBITIONS BY TIME AND PLACE

	Quiet Zone Residential Area	Prohibited Period of Time
1. The detonation of fireworks or explosive devices not used in construction.	At all times	At all times
2. The discharge of firearms.	At all times	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	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.	At all times	At all times
5. The operation of any auditory signalling device including but not limited to the ringing of bells or gongs and the blowing of horns or sirens or whistles, or the production, reproduction or amplification of any similar sounds by electronic means except where required or authorized by law or in accordance with good safety practices.	At all times	At all times

	Quiet Zone Residential Area	Prohibited Period of Time
6. The operation of any powered rail car including but not limited to refrigeration cars, locomotives, or self-propelled passenger cars, while stationary on property not owned or controlled by a railway governed by the Canadian Railway Act.	At all times	2400 hours to 0700 hours
7. The operation of any motorized conveyance other than on a highway or other place intended for its operation.	At all times	At all times
8. The venting, release or pressure relief of air, steam or other gaseous materials, product or compound from any autoclave, boiler, pressure vessel, pipe, valved, machine, device, or system.	At all times	At all times
9. 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	At all times
10. The operation of a commercial car wash with air drying equipment.	At all times	2400 hours to 0700 hours
11. Yelling, shouting, hooting, whistling or singing.	At all times	At all times
12. The operation of a power assisted hang glider or parafoil.	At all times	At all times
13. The operation of any items of snow making equipment.	At all times	2400 hours to 0700 hours
14. All selling or advertising shouting or outcry or amplified sound.	At all times	At all times

	Quiet Zone Residential Area	Prohibited Period of Time
15. 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.	2400 hours to 0700 hours	2400 hours to 0700 hours
16. The operation of any equipment in connection with construction.	2400 hours to 0700 hours	2400 hours to 0700 hours
17. The operation or use of any tool for domestic purposes other than snow removal.	2400 hours to 0700 hours	2400 hours to 0700 hours
18. The operation of solid waste bulk lift or refuse compacting equipment.	2400 hours to 0700 hours	2400 hours to 0700 hours
19. The operation of a commercial car wash of a type other than mentioned in Item 10.	At all times	2400 hours to 0700 hours

4.1 Exemption

Public Safety

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

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

5. 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 by 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, not in excess of six months, during which it is effective any may contain such terms and conditions as Council sees fit.

(2) Decision

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.

(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.

(4) Severability

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.

(5) Penalty

Any person who contravenes any of the provisions of this bylaw is guilty of an offence and upon conviction is liable to a fine as provided for in the Provincial Offences Act.

(6) That By-laws #1016/93, 1060/94 and 1155/95 are hereby repealed.

READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED IN OPEN COUNCIL ON THIS FOURTEENTH DAY OF MAY, 1996.

Dorothy M. Wilson
MAYOR DOROTHY M. WILSON

Merwyn P. Sheppard
CLERK TREASURER/ADMINISTRATOR
MERWYN P. SHEPPARD

This By-Law is approved pursuant to the provisions of the Environmental Protection Act, R.S.O. 1990, C.E-19 as amended, at Toronto, this 19 day of June 1996

[Signature]
MINISTER OF ENVIRONMENT & ENERGY