



BY-LAW NO. 2014-12

BEING A BY-LAW TO PROVIDE FOR THE REGULATION AND PROHIBITION OF UNUSUAL NOISES FOR NOISES LIKELY TO DISTURB THE PUBLIC AND FOR THE PREVENTION OF PUBLIC NUISANCES

WHEREAS it is deemed expedient to exercise the power conferred upon the Council by the Municipal Act, 2001, S.O. as amended, and other statutory authority;

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

NOW THEREFORE the Council of the Corporation of the Township of Nairn and Hyman enacts as follows:

Interpretation

1. In this by-law:

“construction” includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, the laying of pipe, 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;

“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, trenchers, cranes, derricks, loaders, scrapes, pavers, generators, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;

“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 premise of a person;

“council” means the Council of the Corporation of the Township of Nairn and Hyman;

“firearm” means any gun, including an air, pellet or spring gun, and a long-bow and a cross-bow;

“highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof;

“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 railway, or other motor vehicles running only upon rails, or a motorized snow vehicles, traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of the *Highway Traffic Act, R.S.O. 1990, c.H.8*, as amended;

“municipality” means the Corporation of the Township of Nairn and Hyman;

“noise” means sound that is of such a nature that it is likely to disturb the inhabitants of the Township of Nairn and Hyman or any of them;

“point of reception” means any point on the premises of a person where sound originating from any other than those premises is received;

“residential area” means an area designated as residential in the Zoning By-law of the Township of Nairn and Hyman, as may be amended from time to time;

“statutory holiday” means New Year’s Day, Good Friday, Victoria Day, Canada Day, Labour Day, Thanksgiving Day, Christmas Day and Boxing Day.

General Prohibitions

2. No person shall emit or cause or permit the emission of sound resulting from any act listed in Schedule 1 – General Prohibitions, and which sound is clearly audible at a point of reception.

Prohibitions by Time

3. No person shall emit or cause or permit the emission of sound resulting from any act listed in Schedule 2 – Prohibition by Time, if clearly audible at a point of reception within a prohibited time shown.

Exemption – Public Safety

4. Notwithstanding any other provision of this by-law, it shall be lawful to emit or cause or permit the emission of sound in connection with emergency measures undertaken:
 - a) for the immediate health, safety or welfare of the inhabitants of the Municipality or any of them; or,
 - b) for the preservation or restoration of property unless such sound is clearly of a longer duration or by nature more disturbing, than is reasonably necessary for the accomplishment of such emergency purpose, as determined by the Municipal By-law Enforcement Officer for the municipality.

Exemptions Granted by the Municipality

Application to the Municipality

5. (1) Notwithstanding anything contained in this by-law, any person may make application to the Municipality for an exemption from any of the provisions of this by-law with respect to any source of sound and the Municipality 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 a time period, not in excess of six months, during which it is effective and may contain such terms and conditions as the Municipality deems appropriate.

Details of Application for Exemption

- (2) The application mentioned in subsection (1) shall be made in writing in the form attached as Schedule 4, and shall contain:
- a) the name, address and telephone number of the applicant;
 - b) a description of the source and location of sound in respect of which exemption is sought;
 - c) a statement of the particular provision or provisions of this by-law from which exemption is sought;
 - d) the period of time, of a duration not in excess of six months, for which the exemption is sought;
 - e) the reasons why the exemption should be granted;
 - f) a statement of the steps, if any, planned or presently being taken to bring about compliance with this by-law.

Breach

- (3) A breach of any of the terms or conditions of an exemption granted by the Municipality that is caused or permitted by the applicant shall render the exemption null and void.

Exemption of Activities

6. This by-law shall not apply to a person who emits or causes or permits the emission of sound in connection with any of the activities listed in Schedule 3.

Exemption of Normal Farm Practices

7. This by-law shall not apply to a person who emits or causes or permits the emission of sound in connection with normal farming practices within the meaning of the *Farming and Food Production Protection Act, 1998, S.O. 1998, c.1*, as amended.

Severability

8. 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.

Enforcement

9. This by-law shall be enforced by members of the Township of Nairn and Hyman By-law enforcement officer.

Penalty

10. 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 penalty of not more than \$5,000.00, exclusive of costs and every such fine is recoverable under the *Provincial Offences Act, R.S.O. 1990, c.P.33*.

11. This by-law shall come into full force and effect on the date of final passing.

Read a first and second time this 3rd day of February, 2014.

Read a third time and passed in open Council this 3rd day of February, 2014.

(Original Signature on File)

Mayor

(Original Signature on File)

Clerk

Township of Nairn and Hyman
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SCHEDULE 1

General Prohibitions

1. Racing of any motorized vehicle other than in a lawful racing event.
2. The operation of a motor vehicle in such a way that the tires squeal.
3. The operation of any combustion engine, pneumatic device or construction equipment without an effective exhaust or intake-muffling device in good working order and in constant operation.
4. The operation of a motor vehicle or a motor vehicle with a trailer resulting in banging, clanking, squealing or other 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, anywhere within the geographic area of the Township of Nairn and Hyman, where the point of reception is in a Residential Area 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 or 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 antifreeze, cleaning of the fuel system, carburetor or the like, when such work is performed other than for profit.
6. The use of any mechanical equipment that is not operating or being maintained in accordance with the manufacturers specifications resulting in noise other than that emitted in the normal operation of the equipment.
7. The operation of a motor vehicle horn or other warning device except where required or authorized or in accordance with good safety practices.
8. The operation of a stereo or other electronic device designed to amplify sound in, or on, a motor vehicle in such a way that the sound can easily be heard outside of the motor vehicle.

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SCHEDULE 2

PROHIBITIONS BY TIME

1. 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 production, reproduction or amplification of any similar sounds by electronic means except where required to authorize by law or in accordance with good safety practices.	Monday – Saturday Between 11:00 p.m. & 7:00 a.m. Sunday and Statutory Holidays – at all times.
2. The operation of any electronic device or group of connected electronic devices incorporated one or more loudspeakers or other electromechanical transducers, and intended for the production, reproduction or amplification of sound in a residential area.	Monday – Saturday Between 11:00 p.m. & 7:00 a.m. Sunday and Statutory Holidays – at all times.
3. All selling or advertising by shouting or outcry or amplified sound.	Monday – Saturday Between 11:00 p.m. & 7:00 a.m. Sunday and Statutory Holidays – at all times.
4. 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.	Monday – Saturday Between 11:00 p.m. & 7:00 a.m. Sunday and Statutory Holidays – at all times.
5. The operation of any construction equipment in connection with construction.	Monday – Saturday Between 11:00 p.m. & 7:00 a.m. Sunday and Statutory Holidays – at all times.
6. The operation of a combustion engine which, i) is, ii) is used in, or iii) is intended for use in, a toy or model or replica of a larger device, which model or replica has no function other than amusement and which is not a conveyance.	Monday – Sunday Between 11:00 p.m. & 7:00 a.m. Including Statutory Holidays.
7. The operation of any motorized conveyance other than on a highway or other place intended for its operation.	Monday – Sunday Between 11:00 p.m. & 7:00 a.m. Including Statutory Holidays.
8. The venting, release or pressure relief of air,	Monday – Saturday Between 11:00 p.m. & 7:00 a.m. Sunday and Statutory Holidays – at all times.
9. Persistent barking, calling or whinnying by any dog or other persistent noise making by any pet.	At all times.
10. The operation of any powered or non-powered tool for domestic purposes other than snow removal.	Monday – Sunday Between 11:00 p.m. & 7:00 a.m. Including Statutory Holidays.
11. The operation of solid waste bulk lift or refuse compacting equipment.	Monday – Saturday Between 11:00 p.m. & 7:00 a.m. Sunday and Statutory Holidays – at all times.
12. Yelling or shouting.	At all times.

13. The discharge of firearms, other than as part of an otherwise lawful hunt, gun club or where such discharge has agricultural purposes.	At all times.
14. The detonation of fireworks or explosive devices Not used in construction.	At all times except for the celebration of Victoria Day, the birthday of the reigning Sovereign, Canada Day (July 1 st)
15. The operation of a racing event licensed by the Municipality.	Monday – Saturday Between 11:00 p.m. & 7:00 a.m. Sunday and Statutory Holidays – at all times.

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SCHEDULE 3

ACTIVITIES TO WHICH THE BY-LAW DOES NOT APPLY

A list of sources (activities) shall constitute this Schedule and shall specify those events which Council considers to be exempt from the provisions of the By-law.

- (i) Road and bicycle races authorized by the Township of Nairn and Hyman.
- (ii) Regimental salutes.
- (iii) Parades authorized by the Township of Nairn and Hyman.
- (iv) Fireworks displays authorized by the Township of Nairn and Hyman.
- (v) Midways and circuses authorized by the Township of Nairn and Hyman.
- (vi) Sporting, recreational and entertainment events in public parks, buildings or grounds authorized by the Township of Nairn and Hyman.
- (vii) Musical and other performances in public parks, buildings or grounds authorized by the Township of Nairn and Hyman.
- (viii) Special neighbourhood social activities on streets or other public land authorized by the Township of Nairn and Hyman.
- (ix) The discharge of firearms by Police Officers acting in the due performance of their duties.
- (x) Transformers and diesel operated water pumps owned by the Township of Nairn and Hyman and necessary preventive maintenance work undertaken by the Public Works Department.
- (xi) Necessary municipal operations, including but not limited to snow clearing, street cleaning and garbage collection, undertaken by on behalf of the Township of Nairn and Hyman.
- (xii) Snow removal that is essential for the normal operation of a business.
- (xiii) Church clocks striking the hour and chimes ringing and the playing of any carillon.

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SCHEDULE 4

NOTICE OF INTENTION AND
APPLICATION FOR EXEMPTION

Name: _____

Address: _____

Source and location of sound: _____

Applicable by-law section: _____

Time period of exemption

From: _____ 20____, to _____ 20__.

Reason for exemption: _____

Attempts to comply: _____
