

THE CORPORATION OF THE MUNICIPALITY OF SIOUX LOOKOUT

BY-LAW NO. 61-08

BEING A BY-LAW TO PROHIBIT AND REGULATE NOISE WITHIN THE MUNICIPALITY OF SIOUX LOOKOUT

WHEREAS Section 129 (a) of The Municipal Act, S.O. 2001, as amended ("the Act"), allows a municipality to prohibit and regulate with respect to noise, vibration, odour, dust and outdoor illumination, including indoor lighting that can be seen outdoors; and

WHEREAS Section 129 (b) of the Act allows a municipality to require the acquisition of a permit for an exemption to any provision regulated by a by-law of the municipality with respect to noise, vibration, odour, dust and outdoor illumination and may impose conditions for obtaining, continuing to hold and renewing the permit; and

WHEREAS Section 425 of the Act allows a municipality to pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence; and

WHEREAS Section 429 of the Act grants authority to a municipality to establish a system of fines for offences under a by-law of the municipality passed under the Act; and

WHEREAS Section 435 of the Act sets out the conditions applying to the exercise of a power of entry of a municipality under the Act; and

WHEREAS Section 436 of the Act grants a municipality 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 compliance with: 1) a by-law of the municipality passed under the Act; 2) a direction or order of the municipality made under the Act or made under a by-law of the municipality passed under the Act; 3) a condition of a license issued under a by-law of the municipality passed under the Act; or 4) an order made under Section 431 of the Act, and

WHEREAS the Council of The Corporation of the Municipality of Sioux Lookout having deemed there to be a need to prohibit and regulate noise within the Municipality;

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF SIOUX LOOKOUT ENACTS AS FOLLOWS:

1.0 Definitions

For the purposes of this By-Law the following words or terms shall have the definitions associated therewith.

Paragraph Number	Word/Term	Definition
1.1	Animal	Any member of the animal kingdom, other than a human.
1.2	Audio Device	Any radio, television, stereo or musical-sound-producing instrument or device of any kind.

Paragraph Number	Word/Term	Definition
1.3	Corporation	The Corporation of the Municipality of Sioux Lookout
1.4	Council	The Council of The Corporation of the Municipality of Sioux Lookout
1.5	Compression Brake(s)	The system that vehicles use to modify the engine valve operation to use engine compression to slow the vehicle, and when engaged typically produces a loud chattering or machine gun noise. Also known as "engine retarder brakes", "compression release engine brake system", and "Jake Brakes."
1.6	Construction	The erection, alteration, repair, dismantling, demolition, structural maintenance and painting of any structure; moving, land clearing, earth moving, grading, and excavation; blasting and detonation of explosive devices other than fireworks; the laying of pipe and conduit whether above or below ground level, street and highway building, concrete and asphalt laying; equipment installation and alteration and the structural installation of construction components and materials in any form or for any purpose, including any associated or related work and/or equipment.
1.7	Enforcement Officer	An Animal Control Officer, a Municipal Law Enforcement Officer, a By-Law Enforcement Officer, the By-Law Enforcement Officer/Manager of Emergency Services, or other person appointed or employed by the Corporation to enforce By-Laws, or a Police Officer.
1.8	Motor Vehicle	Any automobile, motorcycle, and any other conveyance propelled or driven otherwise than by muscular, gravitational or wind power.
1.9	Municipality	The Corporation of the Municipality of Sioux Lookout and all lands associated therewith.
1.10	Noise	Any unwanted and unwarranted sound or vibration (also see "unwarranted").
1.11	Point of Reception	Any point outside of the originating location of a sound where the sound is clearly audible, and may include another structure, parcel of land, or highway.
1.12	Signal Device	Any bell, horn, siren and any other device used to amplify a sound.

Paragraph Number	Word/Term	Definition
1.13	Special Event(s)	Any demonstration, parade, sporting event, festival, carnival, midway, street dance, block party, and any other function that Council deems to be a Special Event.
1.14	Statutory Holiday	Any holiday proclaimed as a Statutory Holiday or Public Holiday by the Government of the Province of Ontario or the Government of Canada, including but not limited to: New Years Day (January 1 st), Family Day (third Monday in February), Good Friday (Friday before Easter Sunday), Victoria Day (Monday preceding May 25 th), Canada Day (July 1 st), Labour Day (first Monday in September), Thanksgiving Day (second Monday in October), Remembrance Day (November 11 th) Christmas Day (December 25 th), Boxing Day (December 26 th).
1.15	Timber Industry Operations	Any work, including any equipment required to carry out such work.
1.16	Transmitting Device	Any drum, horn, bell, radio or mechanical loudspeaker, amplifier or other instrument or device or sound-producing instrument or apparatus.
1.17	Unwarranted	With respect to noise within the Municipality any noise which unnecessarily disturbs the peace, quiet, comfort or repose of residents of the Municipality.

2.0 Interpretation

2.1 This By-Law may be cited as the "Noise Control By-Law."

2.2 All reference made to the male gender shall include the female gender and all reference made to the singular shall include the plural where applicable in this By-Law.

2.4 All defined words in Section 1.0 are intended to reflect all possible forms of the word as required by this By-Law.

3.0 General Prohibitions

3.1 No person shall emit, 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 sounding of any Audio Device, Signal Device or Transmitting Device;

- b) Persistent barking, calling, whining or other similar persistent noise-making by any domestic animal or pet, or any other animal other than those animals used for agricultural purposes;
- c) The detonation of fireworks;
- d) The use of compression brakes.

4.0 Prohibitions By Time

- 4.1 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 Friday.
- 4.2 No person shall emit, cause or permit the emission of any Unwarranted Noise not otherwise specified in this By-Law between the hours of 1:00 a.m. and 7:00 a.m. on a Saturday.
- 4.3 No person shall emit, cause or permit the emission of any Unwarranted Noise not otherwise specified in this By-Law between the hours of 1:00 a.m. and 9:00 a.m. on a Sunday or Statutory Holiday.
- 4.4 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 for the purpose of advertising or for attracting attention to any performance, show, sale or display of goods, ware or merchandise between the hours of 11:00 p.m. to 7:00 a.m. if the Noise is clearly audible at a Point of Reception.
- 4.5 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. Sunday through Friday, or between the hours of 11:00 p.m. to 9:00 a.m. on a Saturday or the day preceding a Statutory Holiday. (See Schedule "A")

5.0 Exemptions

- 5.1 The provisions of this By-Law do not apply to Noises caused by:
 - a) The use, in a reasonable manner, of any Transmitting Device or Audio Device for the amplification of human voice or of music in a public park during any public celebration or religious service, or during any other gathering provided that prior written permission for the Noise is obtained from the Manager of Emergency Services, including, but not necessarily limited to:
 - i) Canada Day celebrations (including fireworks), Blueberry Festival (including fireworks), Relay for Life, concerts, parades, carnivals, midways, ceremonial drumming, and any Special Events set out by Council;
 - b) Any motor vehicle of the Police or Fire Departments or any Ambulance or other emergency vehicle, or any motor vehicle of the Corporation while answering a call or while participating in any event;
 - c) Emergency works conducted by or on behalf of the Corporation, including but not necessarily limited to excavation, construction, installation, alteration, relocation, repair or demolition of buildings, structures, public facilities or utilities; or
 - d) The operation of street sweepers, snow clearing or removal equipment, or maintenance machines and equipment by or on behalf of the Corporation.

- e) Maintenance on aircrafts and aircraft movement at Sioux Lookout Airport; float plane movement at float plane base; train traffic movement; helicopter movement at the MNR Fire Base and at the Meno-Ya-Win Health Centre.
- f) The use or operation of any equipment, machines or facilities associated with timber industry operations or the noise produced from or associated with timber industry operations.

5.2 Notwithstanding any provision of this By-Law, any person may make application to Council to be granted an exemption from any provision of this By-Law with respect to any Noise he intends to emit, cause or permit to emit, for which he would otherwise be liable to a penalty as provided for under this By-Law, and Council may, by Resolution:

- Grant the requested exemption,
- Refuse to grant the requested exemption, or
- Grant an exemption of lesser effect.

Any exemption granted by Council shall not exceed a period of six months, and shall specify the time period during which the exemption is in force. Council may impose such terms and conditions on the exemption as it deems appropriate. All decisions with respect to the granting of exemptions made by Council shall be deemed final.

5.3 Every request for an exemption to any provision of this By-Law shall be made in accordance with Section 5.2, and shall be submitted to Council not less than thirty days prior to the date for which the exemption is requested. Every request for an exemption made to Council shall be made in writing and shall contain the following information:

- The name and address of the applicant;
- The address or location for which the exemption is requested;
- A description of the source of the noise in respect of which the exemption is sought;
- The time(s) during which the noise will be produced;
- The period of time, not to exceed six months, for which the exemption is requested; and
- Written proof of concurrence from neighbouring property owners and those individuals that may be affected by such exemption.

5.4 No person shall breach any requirement, condition, or other Council-imposed terms of an exemption granted by Council. Such a breach shall render the exemption null and void and the person to whom the exemption was granted shall be guilty of an offence and liable to a penalty as provided for under this By-Law.

6.0 Enforcement, Offence and Penalty

6.1 This By-Law shall be enforced using the powers granted to municipalities under Part XIV of the Municipal Act, including sections 435 and 436.

6.2 Every person who contravenes any provision of this 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.

6.3 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 approved by Resolution of Council, and such fines

shall come into effect upon the approval or amendment by the Attorney General of Ontario or his designate.

6.4 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 designate in order for the Set Fines to be approved.

6.5 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 designate.

7.0 Severability

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.

8.0 Rescind Previous By-Laws

By-Law No. 842, By-Law No. 1113, By-Law No. 1142, By-Law No. 1487, By-Law No. 03-01, and any other Municipal By-Laws that prohibit or otherwise regulate noise are hereby rescinded.

9.0 Effective and Expiry Date:

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

READ A FIRST TIME THIS NINETEENTH DAY OF NOVEMBER, 2008.



Kathy Poling, Mayor



Mary L. MacKenzie, Clerk

READ A SECOND AND THIRD TIME AND PASSED THIS EIGHTEENTH DAY OF MARCH, 2009.



Susan Williams, Deputy Mayor



Mary L. MacKenzie, Clerk

By-Law No. 61-08 – Schedule "A"

Prohibitions Summarized (As per Sections 3.0 and 4.0)

Section	Activity	Prohibited Period of Time
3.1 (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
3.1 (b)	Persistent barking, calling, whining, or other similar persistent noise-making by any domestic animal or pet, or any other animal other than those animals used for agricultural purposes that is Unwarranted and clearly audible at a Point of Reception.	At all times
3.1 (c)	The detonation of fireworks that is Unwarranted and clearly audible at a Point of Reception.	At all times
3.1 (d)	The use of compression brakes that is Unwarranted and clearly audible at a Point of Reception.	At all times
4.1	Any Unwarranted Noise not otherwise specified in this By-Law.	11:00 p.m. to 7:00 a.m. Monday through Friday
4.2	Any Unwarranted Noise not otherwise specified in this By-Law.	1:00 a.m. to 7:00 a.m. Saturday
4.3	Any Unwarranted Noise not otherwise specified in this By-Law.	1:00 a.m. to 9:00 a.m. Sunday or Statutory Holiday
4.4	The noise created by the use or operation of any Audio Device, Signal Device or Transmitting Device for the purpose of advertising or for attracting attention to any performance, show, sale or display of goods, ware or merchandise that is Unwarranted and clearly audible at a Point of Reception.	11:00 p.m. to 7:00 a.m.
4.5	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. Sunday through Friday 11:00 p.m. to 9:00 a.m. on a Saturday or the day preceding a Statutory Holiday Specifically: Sun. 11:00 p.m. – Mon. 7:00 a.m. Mon. 11:00 p.m. – Tues. 7:00 a.m. Tues. 11:00 p.m. – Wed. 7:00 a.m. Wed. 11:00 p.m. – Thurs. 7:00 a.m. Thurs. 11:00 p.m. – Fri. 7:00 a.m. Fri. 11:00 p.m. – Sat. 7:00 a.m. Sat. 11:00 p.m. – Sun. 9:00 a.m. The day preceding a Statutory Holiday 11:00 p.m. – 9:00 a.m. on the Statutory Holiday

**CORPORATION OF THE MUNICIPALITY OF SIOUX LOOKOUT
BY-LAW NO. 61-08 – 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 sounding of Audio, Signal, or Transmitting Device	3.1 (a)	\$100.00
2	Emit, cause, or permit persistent domestic animal/pet noises	3.1 (b)	\$125.00
3	Emit, cause, or permit denotation of fireworks	3.1 (c)	\$250.00
4	Use of or cause or permit the use of compression brakes	3.1 (d)	\$150.00
5	Emit, cause or permit unwarranted noises on Monday through Friday between 11:00 p.m. and 7:00 a.m.	4.1	\$150.00
6	Emit, cause or permit unwarranted noises on Saturday between 1:00 a.m. and 7:00 a.m.	4.2	\$150.00
7	Emit, cause or permit unwarranted noises on Sundays and Statutory Holidays between 1:00 a.m. and 9:00 a.m.	4.3	\$150.00
8	Emit, cause or permit use of Audio, Signal or Transmitting Device for advertising between 11:00 p.m. and 7:00 a.m.	4.4	\$100.00
9	Emit, cause or permit unwarranted noises related to construction between 11:00 p.m. and 7:00 a.m.	4.5	\$200.00
10	Permit or breach of terms of exemption	5.4	\$150.00

Note: The penalty provision for the offences indicated above is Section 7.2 of By-Law No. 61-08, a certified copy of which has been filed.

OFFICE OF THE REGIONAL SENIOR JUSTICE
NORTHWEST REGION
ONTARIO COURT OF JUSTICE

COURTHOUSE
1805 EAST ARTHUR STREET
THUNDER BAY, ONTARIO P7E 2R6



CABINET DU JUGE PRINCIPAL RÉGIONAL
RÉGION DU NORD-OUEST
JUGE DE LA COUR DE JUSTICE DE L'ONTARIO

PALAIS DE JUSTICE
1805, RUE ARTHUR EST
THUNDER BAY (ONTARIO) P7E 2R6

TELEPHONE/TÉLÉPHONE (807) 625-1625
FAX/TÉLÉCOPIEUR (807) 625-1601

RECEIVED

APR 17 2009

April 10th, 2009

Attention: Brian MacKinnon, Cemeteries & Licensing Coordinator

Corporation of the Municipality of Sioux Lookout
P. O. Box 158
Sioux Lookout, Ontario
P8T 1A4

Dear Mr. MacKinnon:

RE: Municipality of Sioux Lookout, Kenora District
Part I, Provincial Offences Act, By-law No. 61-08: Noise

Enclosed herewith is the original Order with original schedule of set fines for By-Law Number 61-08, the Bylaws indicated in the schedules for the Municipality of Sioux Lookout, Kenora District, together with your certified copy of the By-law Number 61-08.

The setting of the fines does not constitute my approval of the short form of wording used to describe the offences.

A copy of the Order and the schedule of the set fines are being held in the Office of the Regional Senior Justice at Ontario Court of Justice in Thunder Bay.

Yours truly,

A handwritten signature in black ink, appearing to read 'D. G. Fraser'.

The Honourable Mr. Justice D. G. Fraser
Regional Senior Justice
Northwest Region

DGF:mz

Encls.

cc: Ms. Kerry-Lee Thompson, Crown Law Office, Toronto
Ms. Heather Kasprick, POA Supervisor, Kenora

OFFICE OF THE REGIONAL SENIOR JUSTICE
NORTHWEST REGION
ONTARIO COURT OF JUSTICE

COURTHOUSE
1805 EAST ARTHUR STREET
THUNDER BAY, ONTARIO P7E 2R6

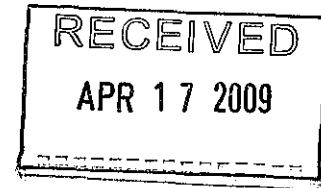


CABINET DU JUGE PRINCIPAL RÉGIONAL
RÉGION DU NORD-OUEST
JUGE DE LA COUR DE JUSTICE DE L'ONTARIO

PALAIS DE JUSTICE
1805, RUE ARTHUR EST
THUNDER BAY (ONTARIO) P7E 2R6
TELEPHONE/TÉLÉPHONE (807) 625-1625
FAX/TÉLÉCOPIEUR (807) 625-1601

April 10th, 2009

Ms. Kerry Lee Thompson
Crown Counsel, Crown Law Office
Ministry of the Attorney General
9th Floor, 720 Bay Street
Toronto, Ontario
M5G 2K1



Dear Ms. Thompson:

RE: Municipality of Sioux Lookout, Kenora District
Part I, Provincial Offences Act, By-law No. 61-08: Noise

I have enclosed the following for your information:

1. Copy of signed Order and accompanying schedule of set fines for By-law No. 61-08, Municipality of Sioux Lookout, Kenora District.
2. Copy of letter to Brian MacKinnon, Cemeteries and Licensing Coordinator.

Please note that a copy of the Order and the schedule of the set fines are being held in the Office of the Regional Senior Justice at Ontario Court of Justice in Thunder Bay. The original Order and schedule of set fines have been forwarded to the Municipality of Sioux Lookout, Kenora District.

Yours truly,

A handwritten signature in black ink, appearing to read "D. G. Fraser".

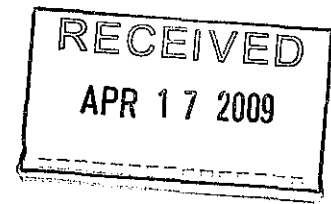
The Honourable Mr. Justice D. G. Fraser
Regional Senior Justice
Northwest Region

DGF:mz

Encls.

cc:

Ms. Heather Kasprick, POA Supervisor, Kenora
✓ Brian MacKinnon, Cemeteries and Licensing Coordinator



PROVINCIAL OFFENCES ACT

IT IS ORDERED pursuant to the provisions of the Provincial Offences Act and the rules for the Ontario Court of Justice that the amount set opposite the offences in the attached schedules of offences under the Provincial Statutes and Regulations thereunder and By-law No.61-08, Part I, of the Corporation of the Municipality of Sioux Lookout, Kenora District, attached hereto are the set fines for these offences, to take effect April 10th, 2009.

Dated at Thunder Bay this 10th day of April, 2009.

A handwritten signature in black ink, appearing to read "D. Fraser", written over a horizontal line.

The Honourable Mr. Justice D. Fraser
Regional Senior Justice
Northwest Region

CORPORATION OF THE MUNICIPALITY OF SIOUX LOOKOUT
BY-LAW NO. 61-08 – NOISE CONTROL BY-LAW
PART 1 OF THE PROVINCIAL OFFENCES ACT

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9	Emit, cause or permit unwarranted noises related to construction between 11:00 p.m. and 7:00 a.m.	4.5	\$200.00
10	Permit or breach of terms of exemption	5.4	\$150.00

Note: The penalty provision for the offences indicated above is Section 6.2 of By-Law No. 61-08, a certified copy of which has been filed.