

THE CORPORATION OF THE MUNICIPALITY OF NEEBING

BY-LAW NUMBER 2020-033

Being a by-law to prohibit and regulate Noise in Neebing

Recitals:

1. *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, authorizes municipalities to prohibit and regulate noise and other nuisances.
2. The Council of The Corporation of the Municipality of Neebing recognizes that people expect, and have the right to an environment free from unusual, unnecessary, or excessive noise which may degrade the quality and tranquillity of their life or cause nuisance.

ACCORDINGLY, THE COUNCIL OF THE CORPORATION OF THE MUNICIPALITY OF NEEBING ENACTS AS FOLLOWS:

1. Short Title: This By-law shall be referred to as “The Noise By-law”.
2. Definitions: Where the words defined in the lettered paragraphs of this Section appear in the text of this By-law with their initial letters capitalized, it is intended that they are interpreted as defined. Where a word appears in the text of this by-law without its initial letter capitalized, it is intended that it is to be interpreted as ordinarily defined in the English language.
 - (a) “Authorized” means sanctioned by the Council, or by a senior order of government, whether through the issue of a permit or licence, or through resolution.
 - (b) “By-law” means this By-law, including its recitals and schedules, which form integral parts of it, as amended from time to time.
 - (c) “Construction” means the erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, 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, concreting, 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.
 - (d) “Construction Equipment” means any equipment or device designed and intended for use in construction or material handling, including; air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, derricks, loaders, scrapers, pavers, generators, off-highway haulers, trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment.

- (e) "Corporation" means The Corporation of the Municipality of Neebing.
 - (f) "Council" means the elected municipal council of the Corporation.
 - (g) "Emergency" means a situation or an impending situation, often dangerous, caused by the forces of nature, human activity, an accident, an intentional act, or otherwise, which arises suddenly and calls for prompt action.
 - (h) "Motor Vehicle" means an automobile, bus, truck, motorcycle, motor assisted bicycle and any other vehicle propelled or driven other than by muscular power, but does not include a traction engine, farm tractor, other farm vehicle or road-building machine.
 - (i) "Municipal Law Enforcement Officer" means a Police Officer, a law enforcement officer, or another person duly appointed to enforce the by-laws of the Corporation.
 - (j) "Municipal Service Vehicle" means a Motor Vehicle operated by or on behalf of the Corporation while being used for the construction, repair or maintenance of a highway, including removing of snow, the construction, repair or maintenance of municipal assets or other municipal purpose.
 - (k) "Neebing" means the geographic area under the jurisdiction of the Corporation.
 - (l) "Noise" means sound that is unusual or excessive, or that is reasonably unwanted by, or disturbing to, persons, in the circumstances within which it occurs.
 - (m) "Premises" means any land or building which is not a Residence.
 - (n) "Residence" means a room, suite of rooms, or dwelling, that is lawfully used as a domicile.
 - (o) "Utility" means a system that is used to provide a utility service to the public, including: electricity, gas, communications networks and cable services.
 - (p) "Utility Service Vehicle" means a Motor Vehicle operated by or on behalf of a company or agency that supplies or manages a Utility within Neebing, while the Motor Vehicle is being used for the construction, repair or maintenance of that Utility.
3. Acting Directly or Indirectly: Where this By-law prohibits an action, or requires a person to undertake an action, the prohibition or requirement applies both directly and indirectly. This means that a person prohibited from doing something is also prohibited from causing, allowing or permitting that action to be done.
4. General Prohibition: No person shall make Noise.

5. Specific Noise Prohibitions: The activities described in Schedule “A” to this By-law are deemed to create “Noise” as defined in this By-law when sound, as a result of the activity, is audible to a person in a Residence, Premises or a Motor Vehicle other than the Residence, Premises or a Motor Vehicle from which the Noise is originating.
6. Specific Noise Prohibitions by Time: The activities described in the first column of the table in Schedule “B” to this By-law are deemed to create “Noise” as defined in this By-law, when they are undertaken on the days and within the hours specified in the corresponding cell in the second column of the table in Schedule “B” to this By-law, and when sound, as a result of the activity, is audible to a person in a Residence, Premises or a Motor Vehicle other than the Residence, Premises or a Motor Vehicle from which the Noise is originating.
7. Exemptions:
 - 7.1. Emergencies: This By-law does not prohibit Noise reasonably necessary resulting from measures undertaken in an Emergency.
 - 7.2. Specific Exemptions: This By-law does not prohibit Noise caused by any one or more of the following activities:
 - a) the operation of Municipal Service Vehicles and related equipment;
 - b) the operation of Utility Service Vehicles and related equipment;
 - c) the Authorized use of fireworks;
 - d) Authorized special events including: festivals, concerts, races, parades, exhibitions, etc.;
 - e) normal farm practices in accordance with the *Farming and Food Production Protection Act, 1998*, S.O. 1998, c. 1, as amended.
 - f) the operation of bells, chimes, carillon and clocks on churches, schools, or public buildings;
 - g) Authorized cultural, recreational, educational or political events in parks or other public areas;
 - h) Authorized neighbourhood events on highways or other municipal property; and/or
 - i) activities normally associated with a lawful commercial, industrial, agricultural or forestry use, unless specifically prohibited elsewhere in the By-law.
8. Severability: If any portion of this By-law is considered by a court or tribunal of competent jurisdiction to be unenforceable or void, that ruling will not apply to the balance of the By-law, which shall be considered to remain in full force and effect.

9. Conflicts with other By-laws: In the event of any conflict between this By-Law and any other by-law passed by the Corporation, the more restrictive provision prevails unless applicable law requires otherwise.
10. Enforcement: This By-law may be enforced by any Municipal Law Enforcement Officer, or by way of a private information sworn in accordance with the *Provincial Offences Act*.
11. Offence: Failure to comply with Section 4 of this By-law constitutes an offence.
12. Penalties: Every person who commits an offence under this By-law is, upon conviction, subject to the penalties prescribed by the *Provincial Offences Act*.
13. Effective Date: This By-law takes effect upon the date of its passage.

ENACTED AND PASSED IN COUNCIL this 7th day of October, 2020, as witnessed by the corporate seal of the Corporation and the hands of its proper Officers duly authorized in that behalf.

THE CORPORATION OF THE
MUNICIPALITY OF NEEBING

Erwin Butikofer

Mayor

Erika Kromm

Clerk-Treasurer

Schedule "A"
General Noise Prohibitions

1. Operation of a Motor Vehicle in such a manner that the tires squeal.
2. Operation of a stereo system or other similar device within a Motor Vehicle in such a manner that the sound, or vibration caused by the sound, is perceptible outside the Motor Vehicle.
3. Operation of a combustion engine or pneumatic device without an effective exhaust muffling device that is in good working order and in constant operation.
4. Operation of any item of Construction Equipment without an effective exhaust muffling device that is in good working order and in constant operation.
5. Operation of a Motor Vehicle in a manner that results in excessive exhaust Noise, banging, clanking, squealing or similar sounds caused by inadequate maintenance or an improperly secured load.
6. Operation of a warning device, including the horn of a Motor Vehicle, except in accordance with good safety practices.
7. Operation of any outdoor auditory signalling device (including: outdoor paging systems; the ringing of bells or gongs; the use of sirens, whistles or chimes; or the production, reproduction or amplification of any similar sounds by electronic means) except when Authorized or in accordance with good safety practices.
8. Use of any air-conditioning device, pool pump, venting system or fan that results in Noise caused by inadequate maintenance or deterioration of its condition.
9. Operation of an engine or motor, in or on, any Motor Vehicle or item of attached auxiliary equipment, for a continuous period of more than five minutes, while such Motor Vehicle is stationary, unless:
 - a) the Motor Vehicle is in an enclosed structure constructed so as to effectively prevent the emission of Noise;
 - b) continuous operation of the engine or motor is essential to a basic function of the Motor Vehicle or equipment, including the operation of ready-mixed concrete trucks, lift platforms, refuse compactors and heat exchange systems, during normal operation; or
 - c) weather conditions justify the use of heating or refrigeration systems powered by the motor or engine for the safety and welfare of the operator, passengers or animals, or the preservation of perishable cargo.
10. Shouting, yelling or amplified sound for the purposes of selling or advertising goods or services for sale.

Schedule "B"
Prohibitions During Specific Times

	Noise-Causing Activity	Prohibited Times
1.	Construction, including the operation of Construction Equipment.	From 11:00 p.m. any day until 7:00 a.m. the following day, unless the following day is a Sunday or a statutory holiday, in which case the prohibition continues until 9:00 a.m.
2.	Operation of any device or group of connected devices intended for the production, reproduction, or amplification of voices or sound.	From 11:00 p.m. any day until 7:00 a.m. the following day, unless the following day is a Sunday or a statutory holiday, in which case the prohibition continues until 9:00 a.m.
3.	Operation of a Motor Vehicle other than on a road or driveway.	From 11:00 p.m. any day until 7:00 a.m. the following day, unless the following day is a Sunday or a statutory holiday, in which case the prohibition continues until 9:00 a.m.
4.	Outdoor operation of any powered or non-powered tool for domestic purposes other than snow removal.	From 11:00 p.m. any day until 7:00 a.m. the following day, unless the following day is a Sunday or a statutory holiday, in which case the prohibition continues until 9:00 a.m.
5.	Operation of a pit or quarry.	From 11:00 p.m. any day until 7:00 a.m. the following day, and all day on Sundays and statutory holidays.
6.	Yelling, shouting, hooting, whistling, singing or the playing of musical instruments, including percussion instruments, except where Authorized.	From 11:00 p.m. any day until 7:00 a.m. the following day, unless the following day is a Sunday or a statutory holiday, in which case the prohibition continues until 9:00 a.m.