

THE CORPORATION OF THE
TOWN OF PRESCOTT

BY-LAW NO. 23-2023

A BY-LAW TO PROHIBIT AND REGULATE NOISE WITHIN THE TOWN OF
PRESCOTT

Being a by-law to prohibit and regulate noise within the Town of Prescott.

WHEREAS, Section 5(3) of the *Municipal Act, 2001 S.O. 2001, c.25, as amended*, provides that Council's powers shall be exercised by by-law; and

WHEREAS Section 128 of the *Municipal Act, 2001*, provides that a municipality may prohibit and regulate with respect to public nuisances, including matters that, in the opinion of Council, are or could become or cause public nuisances; and

WHEREAS Section 129 of the *Municipal Act, 2001*, provides that a municipality may pass by-laws to prohibit and regulate noise; and

WHEREAS Section 425 of the *Municipal Act, 2001*, provides that a municipality may create offences for the contravention of by-laws; and

WHEREAS Section 429 of the *Municipal Act, 2001*, provides that a municipality may establish a system of fines for offences; and

WHEREAS Council of the Town of Prescott deems it advisable to prohibit and regulate the making of noise within the town.

NOW THEREFORE BE IT RESOLVED THAT, the Council of the Corporation of the Town of Prescott enacts as follows:

1. DEFINITIONS

"Administrative Monetary Penalty System" means the Administrative Monetary Penalties System By-Law as approved by Council.

"Community Event" means an event open to the public, including a public fair, public exhibition, public celebration, public sporting event, public concert, or school event.

"Construction" means erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth-moving, grading, excavating, laying of pipe and conduit whether above or below ground level, street and highway building, application of concrete, 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: hand tools, power tools, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, cranes, forklifts, derricks, loaders, scrapers, pavers, generators, off-highway haulers or trucks ditchers, compactors or rollers, pumps, concrete mixers, graders, and any other material handling equipment.

“Council” means the Council of the Corporation of the Town of Prescott.

“Electronic Device” means a device intended primarily for the production, reproduction or amplification of sound, including, but not limited to, any musical instrument, radio receiver, television receiver, recorder, phonograph, loudspeakers, amplifiers, microphones or reproducers or any combination of such equipment, including devices used in the reproduction of music, speech or other sounds.

“Enforcement Officer” means a municipal by-law enforcement officer authorized by the Council of the Corporation of the Town of Prescott, any member of the Ontario Provincial Police, and any Provincial Offences Officer pursuant to the Provincial Offences Act.

“Highway” means any common and public highway, street, avenue, parkway, driveway, square, place, drive, 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.

“Inhabitant” means a person that live in or occupies a place.

“Motor Vehicle” means any private or commercial automobile, motorcycle, motorized assisted bicycle, all-terrain vehicles, extreme terrain vehicle, multi-purpose off-road vehicle, any vehicle propelled or driven otherwise that requires a motor or engine to be movable.

“Noise” means unwanted sound that is generated within the Town and is likely to disturb inhabitant or neighbouring municipality.

“Outdoor Performance” means any artistic or cultural performance that is conducted in an outdoor venue on public or private property where the amplification of sound carries beyond the confines of the property.

“Persistent” means noise that is heard continuously or intermittently heard for a period of fifteen (15) minutes or more over a period of one (1) hour.

“Person” means a person, firm, organization, agency, association, corporation, or partnership used in the normal context of the word.

“Point of Reception” means any point on a premises where sound originating from some other premises is received.

“Zoning By-Law” means the Council approved by-law governing zoning in accordance with the *Planning Act*, as amended.

2. GENERAL PROHIBITIONS

2.1. No person shall within the Town of Prescott emit, cause or permit to be emitted or caused any noise to disturb inhabitants of the Town, as set out in Schedule A, attached hereto, that is clearly audible at a point of reception.

3. PROHIBITIONS BY TIME

3.1. No person shall, within the prohibited time shown in Schedule B, attached hereto, emit, cause or permit the emission of noise which is clearly audible at a point of reception resulting from an act or emanating from a device listed in Schedule B.

4. GENERAL EXEMPTIONS

4.1. This by-law shall not apply to a person who emits, causes or permits the emission of noise in connection with any of the activities listed in Schedule C, attached hereto, of this by-law.

5. EXEMPTION APPLICATION

5.1. Notwithstanding anything in this by-law, any person may make an application, in a form as approved by the Town, to request an exemption to any provision of this by-law on Commercial or Industrial Properties. The Town may refuse to grant any such exemption or may grant the exemption applied for or any exemption of lesser effect, and any exemption granted shall be in the form, attached hereto, as Schedule E.

5.2. Exemption applications related to outdoor performances shall only extended to 01:00, on Friday, Saturday, or Statutory Holiday's.

5.3. A breach of any of the terms or conditions of any exemption grated by the Town shall render the exemption null and void.

5.4. If the Town refuses to grant an exemption application, it may be appealed to Council for consideration.

6. OUTDOOR PERFORMANCE

6.1. Organizers of all outdoor performances must submit an application and be approved by the Town so that the coordination of performances can occur and not result in an overlap. Approved outdoor performances shall be in the form, attached hereto, as Schedule F.

7. ENTRY AND INSPECTION

7.1. An enforcement officer or their designate may at any time, enter onto a property to determine whether this by-law is being complied with.

8. VALIDITY AND SEVERABILITY

8.1. If any section, subsection, clause, paragraph or provision of this by-law or parts thereof are declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or beyond the powers of Municipal Council to enact, such a section, subsection, clause, paragraph, provision or parts thereof shall be deemed to be severable and shall not effect the validity or enforceability of any other provisions of the by-law as a whole or part thereof and all other sections of the by-law shall be deemed to be separate and independent there from and enacted as such.

8.2. Whenever any reference is made under this by-law to a statute or regulation of the Province of Ontario, such reference shall be deemed to include all subsequent amendments to such statute or regulation and all successor legislation to such legislation.

9. ENFORCEMENT & PENALTIES

9.1. This by-law shall be enforced by any Enforcement Officer having jurisdiction in the Town.

9.2. No person shall obstruct or hinder or attempt to obstruct or hinder an Enforcement Officer, or other authorized employee or agent of the Town in the exercise of a power or the performance of a duty under this by-law.

9.3. In addition to any other provision of this By-law or other remedies or recoveries available at law, any person who contravenes any provision of this By-law is guilty of an offense and on conviction is liable to a fine of the maximum allowable fine under Administrative Monetary Penalty System of the Town.

9.4. In addition to any other remedy and to any penalty imposed by this by-law, the Town may make an order prohibiting the continuation or repetition of the offence by the person offender, pursuant to Section 431 of the *Municipal Act, 2001*, as

amended.

9.5. Where a person fails of defaults to carry out any direction or action required by the Town as authorized by this by-law, upon reasonable and written notice, the Town may proceed to do such things or carry out such actions as directed at the expense of the person and such expenses may be recovered by the Town in a like manner as taxes in accordance with the provision of Section 326 of the *Municipal Act, 2001*, as amended.

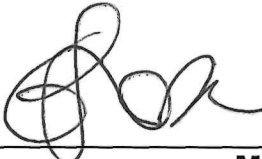
10. GENERAL

10.1. That Schedules "A", "B", "C", "D", "E", and "F" shall constitute part of this by-law.


10.2. That By-law 45-81 as amended, and all other by-laws previously passed that are inconsistent with the provisions of this by-law are hereby repealed in their entirety.

10.3. That this by-law shall come into force and take effect on its passing.

READ AND PASSED, SIGNED AND SEALED THE 5th DAY OF JUNE 2023.



Mayor



Clerk

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Schedule A

GENERAL PROHIBITIONS

No person shall emit, cause or permit the emission of noise resulting from an act listed below, which is clearly audible at point of reception:

1. The operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers, and intended for the production, reproduction or amplification of sound;
2. The operation of any construction equipment, combustion engine or pneumatic device without an original equipment manufacturer specification exhaust or intake muffling device in good working order and in constant operation;
3. Revving of any motor vehicle engine except as required for by a licensed mechanic at a place of business for automotive repair;
4. 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;
5. Residential domestic activities that produce sound of such nature that is unwanted, on-going, persistent, unusual, repetitive, a public nuisance that disturbs a person at a point of reception.
6. Persistent barking, calling, or whining of any domestic pet or any animal.

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Schedule B

PROHIBITIONS BY TIME

Item	Prohibition	Monday to Friday	Saturday and Sunday and Statutory Holidays
1	The operation of any construction equipment in connection with construction.	23:00 to 07:00	23:00 to 09:00
2	The operation of any powered or non-powered tool for domestic purpose other than snow removal.	23:00 to 07:00	23:00 to 09:00
3	Racing of motor vehicles other than in a racing event regulated by by-law		
4	The operation of a motor vehicle in such a way that the tires squeal		
5	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		
6	The operation of a motor vehicle resulting in banging, clanking, squealing or other like sounds		
7	<p>The operation of an engine or motor, or on, any motor vehicle or time of attached auxiliary equipment for a continuous period exceeding five (5) minutes, while such vehicle station in a residential area unless:</p> <ul style="list-style-type: none"> i. The original equipment manufacturer specifically recommends a longer idling period of normal and efficient operation of the motor vehicle in which case such recommended period shall not be exceeded; ii. The operation of such engine or motor is essential to a basic function of the vehicle or equipment including but not limited to operation of a ready mix concrete truck, lift platforms. Or refuse compactors and heat exchange systems normal operation; 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; iv. Prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine. v. The idling is for the purpose of cleaning and flushing the radiator and associated circulation system for seasonal 	At any time	At any time

	change of antifreeze, cleaning of the fuel system, carburetor or the like, when such work is performed other than for profit.		
8	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 in such a manner as to disturb the peace and comfort of a person or persons at the point of reception.		
9	The sound of any bell, steam or air whistle, horn, siren or signal device on or off a vehicle.		
10	The selling or advertising by shouting or loud speaking		
11	The sounds of keeping of any animal or bird		
12	Persistent yelling and shouting, whistling, and singing.		

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Schedule C

GENERAL EXEMPTIONS

The emission of noise in connection with the following activities are considered exempt from the provisions of this by-law:

1. Emergency measures undertaken for the immediate health, safety or welfare of the inhabitants for the preservation or restoration of property.
2. Sirens or noise associated with emergency services, essential services, and all other activities conducted by the Town, the Province of Ontario, Government of Canada, any utility provider or their agents associated with the provisions of maintenance of essential services.
3. The operation of vehicles, equipment and construction equipment when utilized for, the clearing of snow from public and private property, street sweeping and line painting.
4. Audible pedestrian signals.
5. The performance of any use permitted in a Commercial or Industrial zone, and further that the noise generated is pursuant to work done in the normal manner or in order to maintain continuous operation, and that the work does not contravene any federal, provincial or municipal laws or regulations.
6. The use of church bells, chimes or carillons normally associated with religious, traditional and festive activities and the ringing of bells, blowing or sounding of any horn, yelling, shouting, hooting or hollering at a sanctioned sporting event during permitted times.
7. Noise related to activities permitted under a Town approved exemption application.
8. Aircraft, airports, trains and railways subject to regulation by the Government of Canada.
9. Activities and noise as part of a community event.
10. Approved outdoor performances.
11. Town sanctioned events and activities.
12. The operation of excavation equipment when used in a cemetery in conjunction with interment services.

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Schedule D

Fees and Penalties

Fees

Outdoor Performance Application	Free
Exemption Application – Per Event	\$25.00
Exemption Application – Season	\$150.00

Administrative Monetary Penalties

Item	Description	Provision Creating or Defining Offence	1 st Offence	2 nd Offence	3 rd and Subsequent Offence(s)
1	Obstructing or hinder an officer	s 7.1	\$200.00	\$400.00	\$600.00
2	Emit, cause or permit noise from an electronic device	s 2.1, Sch. A (1)	\$150.00	\$300.00	\$450.00
3	Emit, cause or permit noise from any construction equipment, engine or device without exhaust or intake muffling device	s 2.1, Sch. A (2)	\$150.00	\$300.00	\$450.00
4	Emit, cause or permit noise from a motor vehicle in such a way to rev the engine	s 2.1, Sch. A (3)	\$150.00	\$300.00	\$450.00
5	Emit, cause or permit noise from a horn or other warning device	s 2.1, Sch. A (4)	\$150.00	\$300.00	\$450.00
6	Emit, cause or permit noise from residential domestic activity	s 2.1, Sch. A (5)	\$150.00	\$300.00	\$450.00
7	Cause or permit the continuous barking, calling or whining of an animal	s 2.1, Sch. A (6)	\$150.00	\$300.00	\$450.00
8	Emit, cause or permit noise from construction equipment during prohibited time	s 3.1, Sch. B (1)	\$150.00	\$300.00	\$450.00
9	Emit, cause or permit noise from any tool, equipment or appliance during prohibited time	s 3.1, Sch. B (2)	\$150.00	\$300.00	\$450.00
10	Emit, cause, or permit noise by racing of a motor vehicle	s 3.1, Sch. B (3)	\$150.00	\$300.00	\$450.00

11	Emit, cause, or permit noise by operation of a motor vehicle in such a way that tires squeal	s 3.1, Sch. B (4)	\$150.00	\$300.00	\$450.00
12	Emit/cause permit noise by operation of combustion engine, pneumatic device or construction equipment without and effective exhaust or intake muffling device in good working order and in constant operation.	s 3.1, Sch. B (5)	\$150.00	\$300.00	\$450.00
13	Emit/cause permit noise by operation of a motor vehicle resulting in banging, clanking, squealing and other like sounds.	s 3.1, Sch. B (6)	\$150.00	\$300.00	\$450.00
14	Emit/cause permit noise by the operation of an engine or motor exceeding five minutes when vehicle is stationary.	s 3.1, Sch. B (7)	\$150.00	\$300.00	\$450.00
15	Emit/cause permit the operation of any electronic device incorporating one or more loudspeakers intended for the production, reproduction or amplification of sound.	s 3.1, Sch. B (8)	\$150.00	\$300.00	\$450.00
16	Emit/cause/permit the sound of bell, steam or air whistle, horn, siren or signal device on or off vehicle.	s 3.1, Sch. B (9)	\$150.00	\$300.00	\$450.00
17	Emit/cause permit noise by selling / advertising by shouting.	s 3.1, Sch. B (10)	\$150.00	\$300.00	\$450.00
18	Persistent noise making by any animal or bird.	s 3.1, Sch. B (11)	\$150.00	\$300.00	\$450.00
19	Persistent yelling and shouting, whistling, singing.	s 3.1, Sch. B (12)	\$150.00	\$300.00	\$450.00

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Schedule E

EXEMPTION APPLICATION

Application for temporary exemption permit to the Noise By-Law

Applicant's Name: _____

Applicant's Address: _____

Applicant's Phone Number: _____

Applicant's Email: _____

Group or Organization: _____

Event Type: _____

Date & Time of Event: _____

Description of Event – Include the source of sound in respect of which the exemption is being requested:

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Schedule F

OUTDOOR PERFORMANCE APPLICATION

Application for temporary exemption permit for Outdoor Performance to the Noise By-Law.

Organization's Name: _____

Applicant's Address: _____

Applicant's Phone Number: _____

Applicant's Email: _____

Event Type: _____

Date & Time of Event: _____

Description of Event – Include the source of sound in respect of which the exemption is being requested:

