



MISSISSAUGA FIRST NATION  
*NOISE CONTROL LAW*

Enacted	01/06/2019
Approved	03/20/2019
Community Meeting	10/29/2018
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First Draft	2003

## **PREAMBLE**

**Whereas** the Mississauga First Nation have the inherent right given by the Creator to enact any law necessary in order to protect and preserve our Anishinaabe culture, to protect our lands, our language, customs, traditions and practices;

**Whereas** the Mississauga First Nation has entered into the Framework Agreement on First Nation Land Management with Canada (February 12, 1996, as amended: the "Framework Agreement"), which was ratified on behalf of the Government of Canada by the *First Nations Land Management Act* (1999);

**Whereas** the Mississauga First Nation ratified the Framework Agreement and brought its Land Code into effect on August 1, 2009; and,

**Whereas**, pursuant to the Mississauga Land Code, laws may be enacted to protect Mississauga Land, the use and benefit of Mississauga Land, the occupation of Mississauga Land, residence on Mississauga Land, and the creation of offences, penalties and remedies for violations of Mississauga laws;

**And Whereas** it is considered to be expedient and necessary for the benefit, comfort and safety of the inhabitants of the Mississauga First Nation to provide for the prevention of noise on the reserve.

**NOW THEREFORE THIS NOISE CONTROL LAW IS HEREBY ENACTED AS LAW OF THE MISSISSAUGA FIRST NATION.**

## **INTERPRETATION**

2. 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 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;

**“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, scrapers, 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 premises of a person;

**“Council”** means the Council, as defined in the Indian Act, of the Mississauga First Nation;

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

**“noise”** means unwanted sound that materially impairs the use and enjoyment of a person’s property, or that prejudicially affects a person’s health, comfort or convenience or the public health, safety or welfare of the reserve community, but does not include a sound to the extent it is unavoidably necessary for carrying on any business or other means of livelihood authorized by the Council;

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

**“officer”** means any police officer, police constable or other person charged with the duty to preserve and maintain the public peace, and a by-law officer or any other person appointed by the Council for the purpose of maintaining law and order on the reserve;

**“reserve”** means the reserve of the Mississauga First Nation.

## **ZONES**

3. All lands within the geographic limit of the reserve of the Mississauga First Nation shall be considered as the area affected by this by-law.

## **GENERAL PROHIBITIONS**

4. 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 between the hours of 12:00am and 7:00am:
  - (a) racing of any motorized conveyance other than in a racing event regulated by law;
  - (b) the operation of a motor vehicle in such a way that the tires squeal;
  - (c) the operation of any combustion engine or pneumatic device without an effective exhaust or intake muffling device in good working order and in constant operation;
  - (d) the operation of vehicle or a vehicle with a trailer resulting in banging, clanking, squealing or other like sounds due to improperly secured load or equipment, or inadequate maintenance;
  - (e) the operation of motor vehicle horn or other warning device except where required or authorized by law or in accordance with good safety practices;
  - (f) the operation of any item of construction equipment within the reserve without effective muffling devices in good working order and in constant operation;
  - (g) 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 application of sound;
  - (h) all selling or advertising by shouting or outcry or amplified sound;
  - (i) the detonation of fire-works or explosive devices;
  - (j) the discharge of firearms;
  - (k) the operation of any powered or non-powered tool for domestic or commercial purposed other than snow removal between the hours of 7:00 P.M. of one day and 7:00 A.M. the next day, and all day on Sunday or an any statutory holiday;
  - (l) the operation of any construction equipment in connection with construction between the hours of 7:00 P.M. of one day and 7:00 A.M. the next day, and all day on Sunday or on any statutory holiday;

- (m) any sound made by any animal or bird;

which is likely to disturb the inhabitants of the Mississauga First Nation and which is clearly audible at a point of reception.

### **EXEMPTION**

- 6. Notwithstanding any other provision of this by-law, it shall be lawful 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.

### **GRANT OF EXEMPTION BY COUNCIL**

#### **Application To Council**

- 7. Notwithstanding anything contained in this by-law, any person may make application to Council to be granted an exemption from any of the provision of this by-law with respect to any source of sound or vibration for which he might be prosecuted and Council may, by resolution, 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 and may contain such terms and conditions as Council sees fit.

#### **Decision**

- 8. 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.

#### **Re-Application**

- 9. Where an application made under section 7 is refused, the Council is not required to consider any further application by that person for a period of one (1) year from the date of the refusal, unless the

applicant can show that there has been a material change of circumstances.

### **Breach**

10. Breach by the applicant of any of the terms or conditions of any exemption granted by Council shall render the exemption null or void.

### **OFFENCE**

11. (a) Every one who creates or causes a noise contrary to the provisions of this by-law is guilty of an offence.  
  
(b) An officer may order any person who is causing or who threatens to cause a noise on the reserve to refrain from causing the noise or to abate the noise within such period as is reasonable in the circumstances  
  
(c) In determining whether a period fixed under subsection (2) was reasonable in the circumstances, the officer shall take into account
  - (i) the nature and extent of the noise;
  - (ii) the methods available to abate the noise;
  - (iii) the effect of the order on any business or means of livelihood of the person who is the subject of an order.

### **ENFORCEMENT**

12. (a) Where a person who has been ordered to refrain from causing a noise or to abate a noise within a specified period, fails or refuses to comply with the order, an officer may take such reasonable measures as are necessary to abate the noise.  
  
(b) A person who fails or refuses to comply with an order made under this by-law or who resists or interferes with an officer acting under this by-law, commits an offence.

### **PENALTY**

13. A person who commits an offence under this by-law is liable on summary conviction to the following fines or community service;

1<sup>st</sup> Offence: \$100 or 20 hours community services

2<sup>nd</sup> Offence: \$300 or 30 hours community service

3<sup>rd</sup> Offence: \$500 or 40 hours community services