

## **PROTECTION**

### **Chapter 938 NOISE**

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**Article 1  
INTERPRETATION**

**938.1.1 Construction - defined**

"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, 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.

**938.1.2 Construction equipment - defined**

“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.

**938.1.3 Conveyance - defined**

“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.

**938.1.4 Council - defined**

“Council” means the Council of The Corporation of the City of Orillia.

**938.1.5 Highway - defined**

“highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle designed and intended for, or used by, the general public for the passage of vehicles.

**938.1.6 Motor vehicle - defined**

“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*.

**938.1.7 Motorized conveyance - defined**

“motorized conveyance” means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power.

**938.1.8 Municipality - defined**

“municipality” means the land within the geographic limit of The Corporation of the City of Orillia.

**938.1.9 Noise - defined**

“noise” means unwanted sound.

**938.1.10 Officer - defined**

“officer” means a Municipal By-law Enforcement Officer or Police Officer.

**938.1.11 Point of reception - defined**

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

**938.1.12 Quiet zone - defined**

“quiet zone” means those areas of the municipality, specified as follows:

- (a) the area bounded by Dunedin Street on the west, Colborne Street on the south, Mississaga Street on the north and Dufferin Street on the east including the roadways described herein.

**938.1.13 Residential area - defined**

“residential area” means any area zoned as Residential One (R1), Residential Two (R2), Residential Three (R3), Residential Four (R4), Residential Five (R5), Residential Six (R6), Westridge Residential One (WR1), Westridge Residential Two (WR2), Westridge Residential Three (WR3), Westridge Residential Four (WR4), Westridge Residential Five (WR5), or Westridge Residential Six (WR6), by the City of Orillia’s Zoning By-law, as amended, being in effect at the time of an offence or an alleged offence under this Chapter.

**938.1.14 Special event - defined**

“special event” means a carnival, festival, fireworks display, organized sporting event, public meeting, speech, or lecture.

## **Article 2 GENERAL PROHIBITIONS**

**938.2.1 Noises - sounds - clearly audible - set out**

No person shall emit or cause or permit the emission of sound resulting from an act listed in this Article, and which sound is clearly audible at a point of reception.

**938.2.2 Racing - motorized conveyance - not regulated**

Racing of any motorized conveyance other than in a racing event regulated by law is prohibited as set out in Section 938.2.1.

**938.2.3 Squealing - tires - motor vehicle**

The operation of a motor vehicle in such a way that the tires squeal is prohibited as set out in Section 938.2.1.

**938.2.4 Muffler - effective - engine - operation**

The operation of any combustion engine or pneumatic device without effective exhaust or intake muffling devices in good working order and in constant operation is prohibited as set out in Section 938.2.1.

**938.2.5 Vehicle - improper maintenance - unsecure load - other**

The operation of a 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 is prohibited as set out in Section 938.2.1.

**938.2.6 Horn - warning device - use - restricted**

The operation of a motor vehicle horn or other warning device is prohibited as set out in Section 938.2.1, except where required or authorized by law or in accordance with good safety practices.

**938.2.7 Construction equipment - no muffler - restricted areas**

The operation of any item of construction equipment in a quiet zone or residential area without effective muffling devices in good working order and in constant operation is prohibited as set out in Section 938.2.1.

**938.2.8 Sounds - emissions - by time - place - Schedule `A'**

No person shall emit or cause or permit the emission of sound resulting from any act listed in Schedule `A' if clearly audible at a point of reception located in an area of the municipality indicated within a prohibited time shown for such an area.

**Article 3  
EXEMPTION****938.3.1 Public safety - preservation of property - emergency**

Notwithstanding any other provision of this Chapter, it shall be lawful during an emergency to emit or cause or permit the emission of sound or vibration in connection with emergency measures:

- (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.

**938.3.2 Application to Council - conditions**

Notwithstanding anything contained in this Chapter, any person may make application to Council to be granted an exemption from any of the provisions of this Chapter with respect to any source of sound or vibration for which he or she might be prosecuted and Council, by resolution, 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 the time period during which it is effective and may contain such terms and conditions as Council sees fit.

**938.3.3 Grant of exemption - decision - Council**

In deciding whether to grant the exemption, Council shall consider the application and any written submission then received by Council and made by the applicant and the Council may consider such other matters as it sees fit.

**938.3.4 Grant of exemption - terms - conditions - breach-void**

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

**938.3.5 Activities - traditional - festive - religious**

Notwithstanding any other provision of this Chapter, this Chapter does not apply to a person who emits or causes or permits the emission of sound or vibration in connection with any of the listed traditional, festive, religious and other activities.

**938.3.6 Delegated authority**

Delegated authority to administer all or part of this Chapter, including that related to special events, is set out in Chapter 251 - Delegated Authority.

**Article 4  
ENFORCEMENT****938.4.1 Enforcement**

A Municipal By-law Enforcement Officer or Police Officer is hereby vested with the authority of enforcing the provisions of this Chapter.

**938.4.2 Hinder or Obstruct**

No person shall hinder or obstruct, or attempt to hinder or obstruct, any Officer exercising a power or performing a duty under this Chapter, or any person lawfully acting in aid of such an Officer. Without limiting the generality of the meaning of “hinder” or “obstruct”, a person shall be deemed to have obstructed or hindered an Officer in the execution of their duties if he or she:

- (a) provides false information to an Officer; or
- (b) is alleged on reasonable and probable grounds to have contravened any of the provisions of this Chapter, and fails to identify themselves to an Officer upon request.

**938.4.3 Penalties**

- (a) Any person who contravenes any of the provisions of this Chapter is guilty of an offence and upon conviction is liable to a fine or penalty as provided for in the *Provincial Offences Act*.
- (b) Where a section of this Chapter has been contravened, a director or officer of a corporation who knowingly concurs in the contravention is guilty of an offence.

- (c) Upon conviction, in addition to any other remedy and to any penalty imposed by this Chapter, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order prohibiting the continuation or repetition of the offence by the person convicted.

**938.4.4 Rebuttable presumption - identification**

In a prosecution for a contravention of this Chapter, evidence of identification shall be presumed to be correct and accurate, unless rebutted by evidence to the contrary.

**Article 5  
SEVERABILITY**

**938.5.1 Validity**

If a court of competent jurisdiction should declare any Section or part of a Section of this Chapter or the enabling 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 Chapter or enabling by-law and it is hereby declared that the remainder of both the Chapter and the by-law shall be valid and shall remain in force.

**Adopting By-law:** By-law 1978-310, 17 October 1978.

**By-law Amendments:** By-law 1994-24, 10 January 1994; By-law 1996-9, 22 January 1996; By-law 1996-36, 25 March 1996; 2008-90, 26 May 2008.

**Repealed and Replaced:** By-law 2010-161, 15 November 2010.

**By-law Amendments:** By-law 2013-20, 25 February 2013; By-law 2013-21, 25 February 2013; By-law 2015-51, 9 June 2015; By-law 2017-14, 13 February 2017; By-law 2021-81, 23 August 2021.

### Schedule "A" - Prohibitions by Time and Place

	Prohibited Period of Time	
	Quiet Zone	Res. Area
1. The detonation of fireworks or explosive devices not used in construction.	At all times	At all times
2. The discharge of firearms.	At all times	At all times
3. The operation of a combustion engine which,	At all times	At all times
(a) is, or		
(b) is used in, or		
(c) is intended for use in, a toy or Model or replica of any device, which model or replica has no function other than amusement and which is not a conveyance.		
4. 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.	At all times	10:00 p.m. - 7:00 a.m.
5. The operation of any auditory signaling device, including but not limited to the ringing of bells or gongs and the blowing of horns, sirens or whistles, or the production, reproduction or amplification of any similar sounds by electronic means except where required or authorized by law or in accordance with good safety practices.	At all times	10:00 p.m. - 7:00 a.m.
6. The operation of any powered rail car including but not limited to refrigeration cars, locomotives or self-propelled passenger cars, while stationary on property not owned or controlled by a railway governed by the <i>Canada Railway Act</i> .	At all times	10:00 p.m. - 7:00 a.m.



	<b>Prohibited Period of Time</b>	
	<b>Quiet Zone</b>	<b>Res. Area</b>
7. The operation of any motorized conveyance other than on a highway or other place intended for its operation.	At all times	10:00 p.m. - 7:00 a.m.
8. The venting, release or pressure relief of air, steam or other gaseous material, product or compound from any autoclave, boiler pressure vessel, pipe, valve, machine device or system.	At all times	10:00 p.m. - 7:00 a.m.
9. Persistent barking, calling or whining or other similar persistent noise making by any domestic pet, or any other animal kept or used for any purpose other than agriculture.	At all times	At all times
10. The operation of a commercial wash with air drying equipment.	At all times	At all times
11. Yelling, shouting, hooting, whistling, or singing.	At all times	10:00 p.m. - 7:00 a.m.
12. The operation of a power assisted hang glider or parafoil.	At all times	10:00 p.m. - 7:00 a.m.
13. The operation of any item of snow making equipment.	At all times	10:00 p.m. - 7:00 a.m.
14. All selling or advertising by shouting or outcry or amplified sound.	At all times	10:00 p.m. - 7:00 a.m.

	Prohibited Period of Time	
	Quiet Zone	Res. Area
15. 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. Notwithstanding the foregoing, this provision does not apply to a person who emits or causes or permits the emission of sound or vibration related to the delivery of goods to the following destinations:	10:00 p.m. - 7:00 a.m.	10:00 p.m. - 7:00 a.m.
(a) Retail business establishments;		
(b) Restaurants, including cafes and bars;		
(c) Hotels and motels; and		
(d) Goods distribution facilities.		
16. The operation of any equipment in connection with construction.	10:00 p.m. - 7:00 a.m.	10:00 p.m. - 7:00 a.m.
17. The operation or use of any tool for domestic purposes other than snow removal.	10:00 p.m. - 7:00 a.m.	10:00 p.m. - 7:00 a.m.
18. The operation of solid waste bulk lift or refuse compacting equipment.	10:00 p.m. - 7:00 a.m.	10:00 p.m. - 7:00 a.m.
19. The operation of a commercial car wash of a type other than mentioned in item 10.	At all times	At all times
20. The operation of commercial business establishment including but not limited to a bar, tavern, eating establishment, inn, pub or saloon where music is being played and/or performed.	At all times	1:00 a.m. - 7:00 a.m.