

THE CORPORATION OF THE CITY OF NORTH BAYBY-LAW NO. 142-76

BEING A BY-LAW TO CONTROL NOISE.

WHEREAS it is expedient to exercise the power conferred upon the Council by The Environmental Protection Act, 1971, as amended, and other statutory authority; and

WHEREAS a recognized body of scientific and technological knowledge exists by which sound and vibration may be substantially reduced; and

WHEREAS the people have a right to and should be ensured an environment free from unusual, unnecessary, or excessive noise or vibration which may degrade the quality and tranquillity of their life or cause nuisance; and

WHEREAS it is the policy of the Council to reduce and control such noise or vibration;

NOW THEREFORE, the Council of the Corporation of the City of North Bay enacts as follows:

1. Interpretation

Definition

In this by-law,

(a) Certificate

"Certificate" means a Certificate of Competency in Environmental Acoustics Technology of a specified class issued by the Minister of the Environment;

(b) Construction

"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;

(c) Construction Equipment

"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;

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(d) Conveyance

"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 a building;

(e) Council

"Council" means the Council of the Corporation of the City of North Bay;

(f) Highway

"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;

(g) Minister

"Minister" means Minister of the Environment;

(h) Ministry

"Ministry" means Ministry of the Environment;

(i) Motor Vehicle

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

(j) Motorized Conveyance

"motorized conveyance" means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;

(k) Municipality

"municipality" means the land within the geographic limit of the City of North Bay;

(l) Noise

"noise" means unwanted sound;

(m) Noise Control Officer

"Noise Control Officer" means a person designated by Council as responsible for the administration of this By-law, and more specifically shall be the Director of Planning and Works;

(n) Point of Reception

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

(o) Quiet Zone

"quiet zone" means any area of the municipality that is within the areas as shown in Appendix "A" of Schedule 2 of this by-law;

(p) Residential

"residential" area means any area designated as residential in Zoning By-law No. 1097, 9-69 and 907 of The Corporation of the City of North Bay;

(q) Stationary Source

"stationary source" means a source of sound which does not normally move from place to place and includes the premises of a person as one stationary source, unless the dominant source of sound on those premises is construction equipment or a conveyance.

2. Prohibitions

No person shall emit or cause or permit the emission of sound resulting from an act listed in Schedule 1 - General Prohibitions, and which sound is clearly audible at a point of reception.

3. Limitations by Time and Place

No person shall emit or cause or permit the emission of a sound resulting from any act listed in Schedule 2 - Prohibitions by Time and Place, if clearly audible at a point of reception located in an area of the Municipality specified in Schedule 2 within a prohibited time shown for such an area.

4. ExemptionPublic Safety

Notwithstanding any other provision of this by-law, 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 or 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.

5. Grant of Exemption by Council(1) Application to Council

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Notwithstanding anything contained in this by-law, any person may make application to Council to be granted an exemption from any of the provisions of this by-law with respect to any source of sound or vibration for which he 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.

(2) Details of Application for Exemption

The application mentioned in subsection (1) shall be made in writing, in duplicate, and shall contain:

- (a) the name and address of the applicant,
- (b) a description of the source of sound or vibration in respect of which exemption is sought,
- (c) a statement of the particular provision or provisions of the by-law from which exemption is sought,
- (d) the period of time, of a duration not in excess of six months, for which the exemption is sought,
- (e) the reasons why the exemption should be granted,
- (f) a statement of the steps, if any, planned or presently being taken to bring about compliance with the by-law, and
- (g) proof of publication within the preceding ten days, in a newspaper of general circulation within the Municipality, of a notice of intention to apply for an exemption to this by-law, containing the information required by clauses (a) through (e) hereof, and further stating the date upon which it is intended that application will be made to Council.

(3) Noise Control Officer

Council shall cause one copy of the application for exemption to be delivered to the Noise Control Officer and he shall prepare a report to Council forthwith, stating his opinion of the merits of the application and his recommendations as to terms and conditions which, in his opinion, should be imposed upon the applicant if the exemption is granted and Council will not consider the application for exemption until it has received the report of the Noise Control Officer.

(4) Report

The Noise Control Officer shall forward a copy of his report to the applicant at the address shown on the application by prepaid registered mail and shall, not sooner than two weeks after the mailing of the report to the applicant, submit the report to Council and shall, on request, make his report available for public inspection.

(5) Decision

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

(6) Breach

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

6. Exemption of Traditional, Festive or Religious Activities

Notwithstanding any other provision of this by-law, this by-law does not apply to a person who emits or causes or permits the emission of sound or vibration in connection with any of the traditional, festive, religious and other activities listed in Schedule 3.

7. Severability

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

8. Penalty

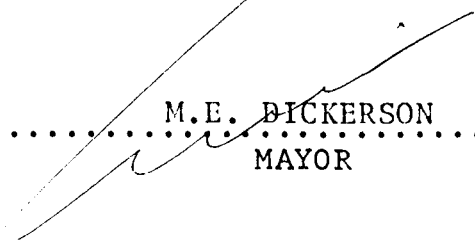
Every person who contravenes any of the provisions of this by-law is guilty of an offence and shall, upon conviction thereof, forfeit and pay a penalty of not less than \$50.00 nor more than \$1,000.00 for a first offence and not less than \$100.00 and not more than \$1,000.00 for a second or subsequent offence, exclusive of costs and every such fine is recoverable under The Summary Convictions Act.


READ A FIRST TIME IN OPEN COUNCIL THIS 29TH DAY OF NOVEMBER, 1976.

READ A SECOND TIME IN OPEN COUNCIL THIS 13TH DAY OF DECEMBER, 1976.

READ A THIRD TIME IN OPEN COUNCIL AND FINALLY ENACTED AND PASSED

THIS 18TH DAY OF APRIL, 1977.

  
..... M.E. BICKERSON ..  
MAYOR

  
..... R.P. BARTON ..  
CITY CLERK

6.

SCHEDULE 1

General Prohibitions

1. Racing of any motorized conveyance other than in a racing event regulated by law.
2. The operation of a motor vehicle in such a way that the tires squeal.
3. The operation of any combustion engine without an effective exhaust muffling device in good working order and in constant operation.
4. 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.
5. The operation of an engine or motor in, or on, any motor vehicle or item of attached auxiliary equipment for a continuous period exceeding five minutes, while such vehicle is stationary in a residential area or in a Quiet Zone unless:
  - (i) the vehicle is in an enclosed structure constructed so as to effectively prevent excessive noise emission; or
  - (ii) the original equipment manufacturer specifically recommends a longer idling period for normal and efficient operation of the motor vehicle in which case such recommended period shall not be exceeded; or
  - (iii) operation of such engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to, operation of ready-mixed concrete trucks, lift platforms or refuse compactors and heat exchange systems, or
  - (iv) 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; or
  - (v) prevailing low temperatures make longer idling periods necessary, immediately after starting the motor or engine; or
  - (vi) the idling is for the purpose of cleaning and flushing the radiator and associated circulation system for seasonal change of antifreeze, cleaning of the fuel system, carburetor or the like, when such work is performed other than for profit.
6. The operation of a motor vehicle horn or other warning device except where required or authorized by law.
7. The operation of any item of construction equipment in a Quiet Zone without effective muffling devices in good working order and in constant operation.

SCHEDULE 2

Prohibitions by Time and Place

	Prohibited Period of Time	
	Quiet Zone	Residential Area
1. The operation of any auditory signalling device, including but not limited to the ringing of bells or gongs and the blowing of horns or 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 any time	B & D
2. 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 any time	C
3. All selling or advertising by shouting or outcry or amplified sound.	At any time	B & D
4. Loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, products, materials, or refuse, whatsoever, unless necessary for the maintenance of essential services.	B	B & D
5. The operation of any construction equipment in connection with construction.	E & D	F & D
6. The detonation of fireworks or explosive devices.	At any time	A
7. The discharge of firearms.	At any time	At any time
8. The operation of combustion engine which, (i) is, (ii) is used in, or (iii) is intended for use in a toy or model or replica of a larger device, which model or replica has no function other than amusement and which is not a conveyance.	At any time	B

SCHEDULE 2  
cont'd

9.	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 Canada Railway Act.	At any time	A
10.	The operation of any motorized conveyance other than on a highway or other place intended for its operation.	At any time	B
11.	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 any time	A
12.	Persistent barking, whining or other similar persistent noise making by any domestic pet.	At any time	At any time
13.	The operation of any powered or non-powered tool for domestic purposes other than snow removal.	A	A
14.	The operation of solid waste bulk lift or refuse compacting equipment.	C	B
15.	The operation of commercial car wash equipment.	C	A
16.	Persistent yelling, shouting, hooting, whistling or singing.	At any time	A

Restricted Times:

- A - 23:00 Hrs. of one day to 07:00 Hrs. next day  
(09:00 Hrs. Sundays)
- B - 19:00 Hrs. of one day to 07:00 Hrs. next day  
(09:00 Hrs. Sundays)
- C - 17:00 Hrs. of one day to 07:00 Hrs. next day  
(09:00 Hrs. Sundays)
- D - All day Sundays and Statutory Holidays.
- E - 17:00 Hrs. of one day to 07:00 Hrs. next day
- F - 19:00 Hrs. of one day to 07:00 Hrs. next day

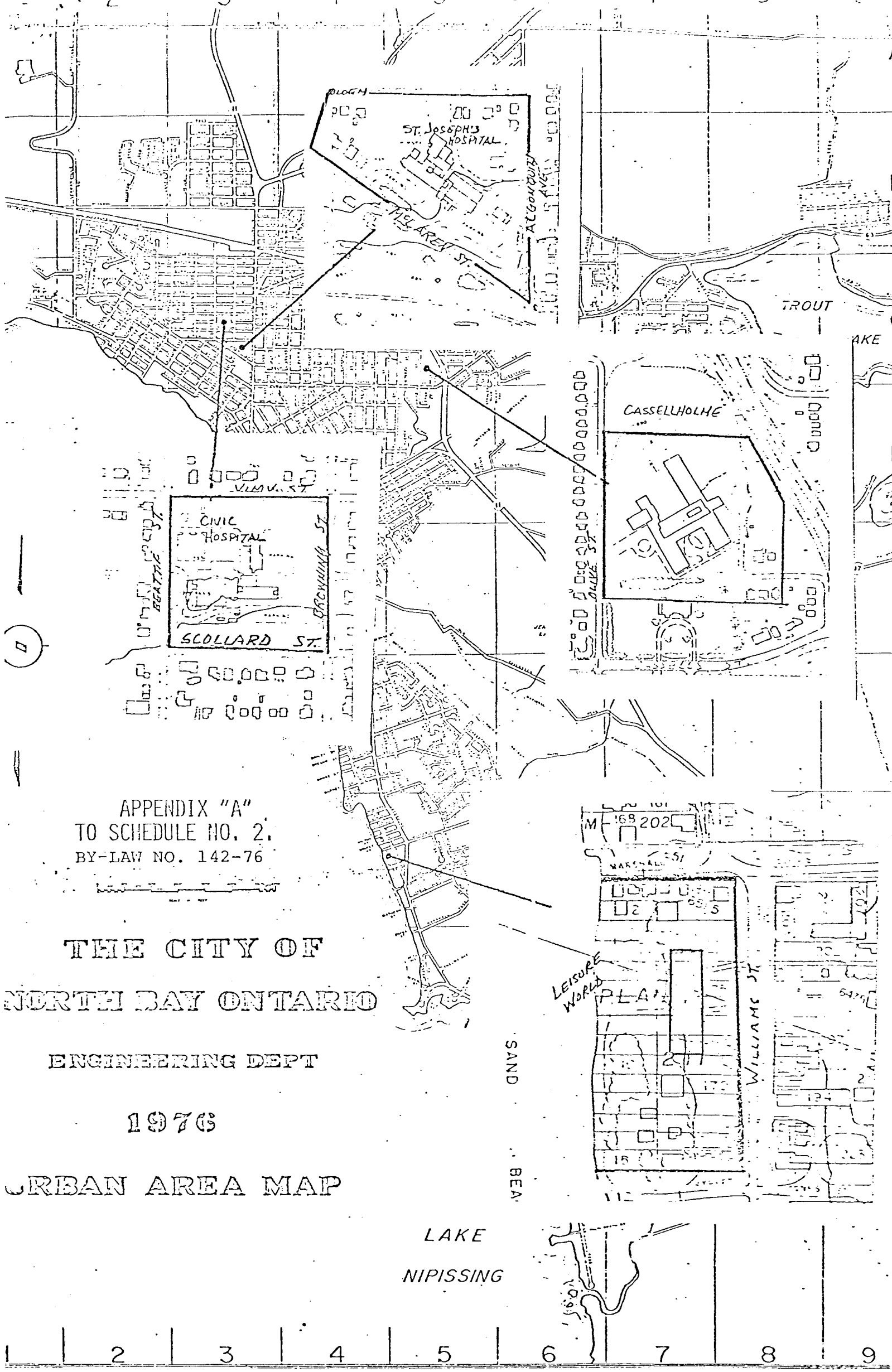


SCHEDULE 3

Activities to Which the By-law Does Not Apply

1. The use in a reasonable manner of an apparatus or mechanism for the amplification of the human voice or of music in a public park or recreational area under the control and management of the City of North Bay in connection with any public election meeting, public celebration or other lawful gathering, provided that written permission of Council to hold such meeting, celebration, or gathering has been first obtained under any applicable by-law of the Corporation of the City of North Bay.
2. Any band or parade, provided that written permission of Council to operate such band or hold such parade has been first obtained under any applicable by-law of the Corporation of the City of North Bay.

APPENDIX "A"



APPENDIX "A"  
 TO SCHEDULE NO. 2,  
 BY-LAW NO. 142-76

THE CITY OF  
 NORTH BAY ONTARIO

ENGINEERING DEPT

1976

URBAN AREA MAP

LAKE  
 NIPISSING