# BY-LAW No. 2018-032

# OF THE

# CORPORATION OF THE TOWN OF COLLINGWOOD

Being a by-law to regulate noise within the town of Collingwood.

**WHEREAS** section 129 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended (the "Act") provides that a local municipality may pass by-laws to prohibit and regulate noise and vibration, and other matters;

**AND WHEREAS** section 129 of the Act provides that a local municipality may prohibit noise and vibration unless a permit is obtained from the municipality and may impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

**NOW THEREFORE COUNCIL OF THE CORPORATION OF THE TOWN OF COLLINGWOOD ENACTS AS FOLLOWS:**

**1.Short Title**

This by-law may be cited as the "Noise Control By-law."

**2.Definitions**

**"Active Development"** means where construction is ongoing on a property in relation to an application for a Plan of Subdivision or a Site Plan application that has been approved by the Town;

**"By-law"** means this Noise Control By-law;

**"CAO"** means the Chief Administrative Officer of The Corporation of the Town of Collingwood or his/her designate;

**"Clerk"** means the Clerk of The Corporation of the Town of Collingwood or his/her designate;

**"Construction"** means the 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 installing of construction components and materials in any form or for any purpose, includes any work in connection therewith and this definition excludes any **"Domestic Works"** as defined within this by-law;

**"Construction Equipment"** means any equipment or device designed and intended for use in Construction or material handling, including but not limited to, air compressors, power saws, belt sanders, powered drills, jackhammers, 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 and any other similar equipment;

**"Council"** means the Council of The Corporation of the Town of Collingwood;

**"Domestic Works"** means any Construction, renovation or repair being completed by an Owner to his or her own property;

**"Emergency"** means a situation or an impending situation, often dangerous, caused by the forces of nature, an accident, an intentional act or otherwise, which arises suddenly and calls for prompt action;

**"Event"** means an exhibition, concert, festival, race, parade, wedding or other private social event, circus or sporting event (whether amateur or professional) held within the Town for profit or otherwise;

**"Firearm"** shall mean a barreled weapon from which any shot, bullet or other projectile can be discharged and includes air guns, spring-guns and anything that can be adapted for use as a firearm;

**"Holiday"** has the same meaning as in the Retail Business Holidays Act, R.S.O. 1990, c. R.30, as amended;

**"Officer"** means a person appointed by Council as a Municipal Law Enforcement Officer, or a Police Officer, or other individual duly appointed to enforce this By-law;

**"Owner"** includes an assessed owner, tenant, occupant or any person having an interest, whether equitable or legal, in the land or premises;

**"Person"** means an individual, corporation or other legal entity;

**"Property Maintenance Tools"** includes but is not limited to powered or non-

powered tools, lawnmowers, hedge trimmers, whipper-snippers, leaf blowers, chain saws, power washers, power assisted sweepers and vacuums, but does not include any snow-removal equipment;

**"Shooting Facility"** means an outdoor area designed and used for the safe discharge of Firearms at a licensed and regulated gun club or gun range;

**"Site Alteration"** means activities such as removal of topsoil from land, the placement or dumping of fill on land, the alteration of the grade of land or excavation by any means including the removal of vegetative cover, the compaction of soil or the creation of impervious surfaces, or any combination of these activities that would change the landform and natural vegetative characteristics of land;

**"Town"** means The Corporation of the Town of Collingwood; and

**"Zone"** means an area of a defined land use in a Zoning By-law passed under the Planning Act as amended, by the Town from time to time.

**3.General Provisions**

3.1. No person shall, at any time, emit, cause or permit the emission of noise likely to disturb the inhabitants of the Town, subject to section 4.0 of this By-law.

**4.Prohibitions by Time**

4.1. No person shall emit, cause or permit the emission of noise from any activity set out in Column 1 of Schedule "A" to this By-law except during the periods of time set out in Column 2 of Schedule "A".

4.2. No person shall emit, cause or permit the emission of noise from any activity set out in Column 1 of Schedule "B" to this By-law during the periods of time set out in Column 2 of Schedule "B".

**5.Exceptions**

5.1. This By-law does not apply:

a. during an Emergency;

b. to the Town, including any Town Events, operations, services or activities;

c. to any snow-removal equipment or activities while in the process of removing snow;

d. to the provincial or federal government;

e. to a public utility;

f. to a “normal farm practice” as defined in the Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1, as amended, and carried on as part of an “agricultural operation” also as defined in the Farming and Food Production Protection Act, 1998, S.O. 1998, c. 1, as amended;

g. to the use of bells or chimes associated with any church, chapel, meeting house or religious service;

h. to noise between the hours of 7:00 A.M. and 7:00 P.M. resulting from any permitted uses within a Commercial Zone as defined by the applicable zoning by-law, and is not otherwise regulated within this or any other Town by-law or agreement; and

i. to noise resulting from any permitted uses within an Industrial Zone as defined by the applicable zoning by-law, provided such noise is in compliance with a valid Certificate of Approval issued by the Ministry of Environment and Climate Change and is compliant with all other applicable legislation.

**6.Exemptions**

6.1. Notwithstanding any other provision of this By-law, the Clerk or CAO may grant an exemption from any of the provisions of this By-law at any time.

6.2. The Clerk or CAO may, at their discretion, forward the exemption application to Council to have Council make the final decision on whether to grant or refuse the application, with or without conditions or to a greater or lesser extent.

6.3. Notwithstanding any other provision of this By-law, any person may apply to the Clerk to be granted an exemption from any of the provisions of this By-law and the Clerk , CAO or Council may:

a. grant the requested exemption, with or without conditions;

b. refuse to grant the requested exemption; or,

c. grant the requested exemption to a greater or lesser extent, with or without conditions.

6.4. Any exemption granted shall specify the period of time during which it is effective and may contain such terms and conditions as the Clerk or CAO deems fit.

6.5. The exemption application shall be filled out in the prescribed form as approved by the Clerk.

6.6. An application for an exemption from the provisions of this By-law shall be made in writing and shall include the following:

a. applicant's name, address and other prescribed contact information;

b. the proposed source of the noise;

c. the date(s), time(s) and location(s) of the Event or other activity for which the exemption is being sought;

d. the applicant's reason for requesting the exemption;

e. in the case of Construction related exemptions to applicable Sundays or any Holiday, justification must be provided showing no other alternatives;

f. the name, address and other prescribed contact information for the person(s) who will be supervising the Event or activity for which the exemption is being sought;

g. the applicable fee; and,

h. any other prescribed information on the application form.

6.7. Notwithstanding any other provision of this By-law, for an Event:

a. an exemption application shall be completed in accordance with the provisions of this By-law and submitted to the Clerk at least thirty (30) days prior to the Event for which the exemption is being sought;

b. the Town shall, before an application for a noise exemption for an Event is considered by the Clerk or CAO (or Council, at the Clerk's or CAO's discretion), publish in a newspaper of general circulation within the Town, a minimum of one (1) notice containing the relevant information required by subsections 6.6(a), (b), (c) and (d) of this By-law, and further stating the date upon which it is intended that the application will be considered by the Clerk or CAO or Council. The notice shall be published at least ten (10) days before the application is considered by the Clerk or CAO (or Council, at the Clerk's or CAO's discretion). The notice will also be published on the Town's website and advertised through other Town social media outlets.

6.8. Any breach of the terms or conditions of the exemption granted by the Clerk, CAO or Council, or any error or omission in the information provided to the Town

pursuant to section 6.6 of this By-law shall immediately render the exemption null and void.

**7.** An Officer may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:

a. this By-law;

b. a direction or order made under the Act or this By-law; or,

c. a condition of a noise exemption granted under this By-law.

7.2. No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer or other duly appointed person who is exercising a power or performing a duty under this By-law.

**8. Administration and Enforcement**

8.1. The Clerk shall administer the provisions of this By-law.

8.2. An Officer or other duly-appointed person shall enforce the provisions of this By-law.

**9. Order to Discontinue Activity**

9.1. If an Officer is satisfied that this By-law has been contravened, the Officer may make an order, requiring the person who contravened the By-law, or who caused or permitted the contravention, or the Owner of the land on which the contravention occurred, to discontinue the contravention.

9.2. An order made under section 9.1 of this By-law shall set out:

a. reasonable particulars of the contravention adequate to identify the contravention and the location of the land on which the contravention occurred; and,

b. the date by which there must be compliance with the order.

9.3. A person who contravenes an order made under section 9.1 of this By-law is guilty of an offence.

**10. Penalty**

10.1. Every person who contravenes any provision of this By-law, and every director or officer of a corporation who knowingly concurs in the contravention of this By-law by the corporation, is guilty of an offence.

10.2. Any person convicted under this By-law is liable:

a. upon a first conviction, to a minimum fine of $300 and a maximum fine of $25,000; or,

b. upon a subsequent conviction, to a minimum fine of $300 and a maximum fine of $50,000.

10.3. Notwithstanding section 10.2, where the person convicted is a corporation, the corporation is liable:

a. upon a first conviction, to a minimum fine of $500 and a maximum fine of not more than $50,000; or,

b. upon any subsequent conviction, to a minimum fine $500 and a maximum fine of not more than $100,000.

10.4. In addition to the regular fine for an offence as set out in sections 10.2 and 10.3 of this By-law, a special fine may be imposed to eliminate or reduce any economic advantage or gain from contravening the By-law.

10.5. Upon conviction for an offence under this By-law, in addition to any other remedy and to any penalty imposed by this By-law, 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.

**11.Validity, Severability and Interpretation**

11.1. Should a court of competent jurisdiction declare a part or whole of any provision of this By-law to be invalid or of no force and effect, the provision or part is deemed severable from this By-law, and it is the intention of Council that the remainder survive and be applied and enforced in accordance with its terms to the extent possible under law.

11.2. Whenever any reference is made in 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.

**12.Repeal**

12.1. By-law 87-67 is hereby repealed.

**13.Enactment**

13.1. This By-law shall come into full force and effect on the date of final passage hereof at which time all By-laws and/or resolutions that are inconsistent with the provisions of this By-law and the same are hereby repealed or rescinded insofar as it is necessary to give effect to the provisions of this By-law.

**ENACTED AND PASSED** this 14th day of May, 2018.

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Mayor's Signature

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Clerk's Signature

**Schedule 'A' to By-law No. 2018-032**

**Permitted Periods of Time**

Noise from the following activities set out in Column 1 shall only be permitted during the periods of time set out in Column 2:

| | **Column 1** | **Column 2** |
|---|---|---|
| **Item** | **Activity** | **Permitted Periods of Time** |
| 1. | The operation or use of any Construction Equipment in connection with Construction activities. | Monday to Friday: 7AM to 7PM<br>Saturday: 8AM to 4PM<br>Sunday, Holiday: Prohibited |
| 2. | The operation or use of any Construction Equipment in connection with Site Alteration within an Active Development as defined. | Monday to Friday: 7AM to 7PM<br>Saturday, Sunday, Holiday: Prohibited |
| 3. | The operation or use of any Construction Equipment for Domestic Works, other than snow removal. | Monday to Friday: 7AM to 7PM<br>Saturday/Sunday/Holiday: 8AM to 6PM |
| 4. | Usage of Property Maintenance Tools except at a golf course | Monday to Sunday and Holiday: 7AM to 9PM |
| 5. | The discharge of a Firearm at a Shooting Facility | Monday, Wednesday: 9AM to 9PM<br>Tuesday, Thursday, Friday: 9AM to 7PM<br>Saturday: 9AM to 7PM<br>Sunday/Holiday: 11AM to 7PM |

## Schedule “B” to By-law No. 2018-032

## Prohibitions by Time

Noise from the following activities set out in Column 1 shall be prohibited during the periods of time set out in Column 2:

| | Column 1 | Column 2 |
|---|---|---|
| **Item** | **Activity** | **Prohibited Periods of Time** |
| 1. | Operation of speakers and other sound amplification equipment outdoors, including at Events. | Sunday to Thursday: 9PM to 8AM the next day<br>Friday/Saturday/Holiday: 11PM to 8AM the next day |