

**THE CORPORATION OF THE MUNICIPALITY OF
HURON SHORES**

BY-LAW # 15-14

BEING A BY-LAW TO CONTROL NOISES.

WHEREAS the making, creation or maintenance of excessive, unreasonable or nuisance noise within The Corporation of the Municipality of Huron Shores (the "Municipality") affects and is a detriment to public health, comfort, convenience, safety and welfare of the people of the municipality;

AND WHEREAS it is in the public interest to reduce the noise level within the municipality, so as to preserve, protect and promote the public health, safety, welfare and peace and quiet of the inhabitants thereof;

AND WHEREAS, the *Municipal Act*, 2001, S.O. 2001, C.25, s. 129, as amended, authorizes Municipal Councils to pass by-laws to prohibit and regulate noise;

NOW THEREFORE, The Council of The Corporation of The Municipality of Huron Shores hereby ENACTS AS FOLLOWS:

1. Interpretation

(1) In this by-law:

- (a) "clearly audible" means a noise level that a reasonable person would, consider to be excessive, or unnecessary, or intrusive, or disturbing or unacceptable;
- (b) "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, trencher, cranes, derricks, loaders, scrapers, pavers, generator, off-highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders or other material handling equipment;
- (c) "construction work" includes but is not limited to, erection, alteration, repair, dismantling, demolition, structural maintenance, land clearing, earth moving, grading, excavating, the 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 with construction;

- (d) "conveyance" includes a vehicle and any other device employed to transport a person or persons or goods from place to place;
- (e) "Council" means the Council of the Corporation of the Municipality of Huron Shores;
- (f) "highway" includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is designed and intended for or used by the general public;
- (g) "inhabitants" means one or more persons who reside in the Corporation of the Municipality of Huron Shores;
- (h) "motor vehicle" includes an automobile, motorcycle, motor assisted bicycle and any other vehicles propelled or driven other 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, R.S.O. 1990 c. H.8 as amended;
- (i) "motorized conveyance" means a conveyance propelled or driven by other than muscular, gravitational or wind power;
- (j) "motorized equipment" means any equipment or device that contains an engine or motor essential to the basic function of such equipment or device;
- (k) "municipality" means the land within the geographic limit of the Corporation of the Municipality of Huron Shores;
- (l) "noise" means unwanted sound;
- (m) "nuisance noise" means any loud, unnecessary or unusual sound or any sound whatsoever which annoys, disturbs, injures, endangers or distracts from the comfort, repose, health, peace and/or safety of any reasonable person as determined by an officer;

- (n) "officer" means any member of the Ontario Provincial Police force and any other police force, police constable, or By-law Enforcement Officer, designated officer or other person appointed and employed by the Municipality of Huron Shores for preservation and maintenance of public peace;
- (o) "owner" includes:
 - (i) The person who for the time being, manages or receives the rent for the land or premises in connection with which the land is used, whether on the person's own account or as agent or trustee of any other person, or who would receive the rent if the land and premises were let; and
 - (ii) A lessee or occupant of the property;
- (p) "person" means any individual and includes firm, partnership, association, corporation, company or groups of persons;
- (q) "premises" means a building or buildings including the associated land;
- (r) "point of reception" means any point on the premises of a person where noise originating from other than those premises is received;
- (s) "power device" means any powered device used in the servicing, maintenance or repair of any property, excluding devices driven by muscular power and snow blowers;
- (t) "property" means a building or structure or part of a building or structure, the lands appurtenant to the building or structure, all mobile homes, mobile buildings or mobile structures and includes vacant land;
- (u) "residential area" means any property within the municipality which may be occupied for residential use or which is used in whole or in part for human habitation;
- (v) "sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that

medium and the description of sound may include any characteristic of such sound, including duration, intensity and frequency.

2. Prohibitions

- (1) No person shall emit, cause or permit the emission of sound or noise which is clearly audible at a point of reception anywhere or at any time within the municipality resulting from any of the following acts:
 - (a) the 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 a motor vehicle, motorized equipment, construction equipment or pneumatic device without an effective exhaust, intake-muffling device or other sound attenuation device of a type specified by the manufacturer, which is in good working order, and in constant operation;
 - (d) the operation of a motor vehicle or a motor vehicle with a trailer resulting in banging, clanking, squealing or other like sound due to improperly secured load or equipment or inadequate maintenance;
 - (e) 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, such as the operation of a radio, television, stereo or other electronic device including any amplification device or any musical or other sound producing instrument, in such a manner as to disturb the peace and comfort of a person or persons at a point of reception;
 - (f) allowing the persistent barking, calling, whining or other similar persistent noise-making by any domestic pet or any other animal kept or used for any purpose other than agriculture;

(2) No person shall emit, cause or permit the emission of sound, clearly or audible at a point of reception located anywhere within the municipality on any day at any time between the hours of 10:00 p.m. and 7:00 a.m., inclusive, resulting from any of the following acts:

- (a) the operation of a combustion engine which is in or is used in or is intended for use in a toy or a model or replica of any device which model or replica has no function other than amusement and which is not a conveyance;
- (b) any loud, abusive, obscene language or singing or shouting or speaking or hooting or whistling likely to disturb any inhabitant;
- (c) loading, unloading, delivering, packing, unpacking or otherwise handling any containers, product, materials or refuse unless necessary for the maintenance of essential services or moving of private household effects;
- (d) the operation of any motorized equipment except in a case of short term emergency;
- (e) the operation of any power device or any tool for domestic purposes other than snow removal except in the case of short term emergency; and
- (f) construction work.

3. Owner/Occupier Responsibilities

The property owner, lessee, occupier or person in control of a premises is responsible for nuisance noise created by invitees, guests or other persons on the premises in the same manner as the person actually creating the nuisance noise unless the property owner, lessee, occupier or person in control of the premises establishes that due diligence has been exercised in a bona fide effort to control and abate such nuisance noise.

4. Limitations

(1) No person shall operate an engine or motor in or on any motorized conveyance or attached auxiliary equipment for a continuous period exceeding five minutes while it is stationary in a Residential Area unless:

- (a) the operation of such engine or motor is essential to the basic function of the motorized conveyance or equipment including, but not limited to, lift platforms and refuse compactors;
- (b) prevailing low temperatures make longer idling periods necessary immediately after starting the motor or engine; or
- (c) the idling is for the purpose of cleaning and flushing the radiator and associated circulation systems for seasonal change of antifreeze, cleaning of the fuel system or carburetor when such work is performed other than for profit.

5. Permitted Noises

None of the provisions of this By-law shall apply to:

- (1) Agricultural farming operations including and/or the use of implements of husbandry in the operation of agricultural endeavours;
- (2) sound emanating from any community festival, street festival, block party or wedding reception;
- (3) snow clearing, road maintenance and road construction vehicles and equipment operated by the Municipality or its agents and/or contractors;
- (4) sound emanating from the clearing of snow from private parking lots and/or driveways;
- (5) grass and field of play maintenance vehicles and equipment operated by the Municipality and or its agents and/or contractors;
- (6) sound emanating from the Fire Hall alarm, or the sirens of any emergency vehicle while engaged in providing emergency work or responding to an emergency or during testing of the emergency measures civil defense or warning siren;
- (7) the use of any bell, chime or similar sound for the purpose of calling persons to church and/or similar school services;
- (8) the use, in reasonable manner, of any apparatus, mechanism or device for the amplification of the human voice or of music on public property in connection with any duly approved public meeting, celebration or other public gathering;

(9) noise or emission of sound emanating from activity conducted by the Municipality, the Province of Ontario, the Government of Canada or any agents authorized thereof, when undertaking measures for the:

(a) immediate health, safety or welfare of the inhabitants of the Municipality; or

(b) preservation, restoration or demolition of any highway.

6. Exemptions By Application

(1) Despite anything contained in this by-law, any person may, no later than sixty (60) days prior to the date of which an exemption may be requested, make a request to Council in writing for an exemption from any of the provisions of this by-law and any such request for exemption request shall contain the following:

(a) the name and address of the applicant;

(b) the location of the event or activity for which the exemption is being sought;

(c) a description of the source of sound for which the exemption is being sought;

(d) a statement of the particular provision or provisions of the by-law from which exemption is being sought;

(e) the dates and period of time for which the exemption is being sought;

(f) the reasons why the exemption should be granted; and

(g) a statement of the steps, if any, planned to be or presently being undertaken, to bring about compliance with this by-law.

(2) The Council of the Municipality may, following a review of the request for exemption at a Council meeting, at the applicant's expense, cause a notice of the request for exemption to be published in a newspaper having general circulation within the Municipality, setting out a date and time when the request for exemption will be considered.

(3) The Council may, by resolution, grant the exemption applied for or any exemption of lesser effect, or refuse to grant an exemption. Any exemption granted shall specify the time period during which it is effective and may

contain such terms and conditions as the Council sees fit.

7. Breach of Permitted Exemption

Any breach of any of the terms or conditions of an exemption granted by the Council or the failure of the applicant to pay any required fee in relation to an exemption, shall immediately render the exemption null and void.

8. Vexatious Complaints

Where an officer has determined that a complaint has been filed for a malicious or vexatious reason, or as part of an ongoing pattern of harassment, and does not involve a matter of serious health, safety, or breach of the Noise By-law, the officer may cease the investigation and close the file with no further action being taken.

9. Offence

Every person who contravenes any provision of this by-law is guilty of an offence and, upon conviction, is liable to a fine, exclusive of costs and every such fine is recoverable under the Provincial Offences Act, R.S.O. 1990, c. P.33, as amended.

10. This by-law shall come into full force and take effect upon the final passing thereof.

Read a first, second and third time and passed in open Council this 25th day of March, 2015.

MAYOR – L. C. (Gil) Reeves

CLERK – Deborah Tonelli

Part I - PROVINCIAL OFFENCES ACT

THE CORPORATION OF THE MUNICIPALITY OF HURON SHORES - By-Law 15 – 14 Set Fine Schedule A

TITLE: A BY-LAW TO CONTROL NOISES

ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 Offence Creating Provision or Defining Offence	COLUMN 3 Set Fine
1.	Cause/Permit Noise - racing a motorized conveyance	Sec. 2 (1) (a)	\$125.00
2.	Cause/Permit Noise - squealing tires	Sec. 2 (1) (b)	\$125.00
3.	Cause/Permit Noise - operate motor vehicle without effective muffler	Sec. 2 (1) (c)	\$125.00
4.	Cause/Permit Noise – operate motorized equipment without effective muffler	Sec. 2 (1) (c)	\$125.00
5.	Cause/Permit Noise - operate construction equipment without effective muffler	Sec. 2 (1) (c)	\$125.00
6.	Cause/Permit Noise - operate pneumatic device without effective muffler	Sec. 2 (1) (c)	\$125.00
7.	Cause/Permit Noise - operate vehicle causing noise	Sec. 2 (1) (d)	\$125.00
8.	Cause/Permit Noise - operate vehicle and trailer causing noise	Sec. 2 (1) (d)	\$125.00
9.	Cause/Permit Noise - operate loudspeaker or electro-mechanical transducer	Sec. 2 (1) (e)	\$125.00
10.	Permit Noise - noise caused by domestic animal	Sec. 2 (1) (f)	\$125.00
11.	Cause/Permit Noise - operate a model combustion engine during prohibited times	Sec. 2 (2) (a)	\$125.00
12.	Cause/Permit Noise – singing during prohibited times	Sec. 2 (2) (b)	\$125.00
13.	Cause/Permit Noise – shouting during prohibited times	Sec. 2 (2) (b)	\$125.00
14.	Cause/Permit Noise – yelling during prohibited times	Sec. 2 (2) (b)	\$125.00
15.	Cause/Permit Noise – hooting during prohibited times	Sec. 2 (2) (b)	\$125.00
16.	Cause/Permit Noise – whistling during prohibited times	Sec. 2 (2) (b)	\$125.00

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ITEM	COLUMN 1 SHORT FORM WORDING	COLUMN 2 Offence Creating Provision or Defining Offence	COLUMN 3 Set Fine
17.	Cause/Permit Noise – handling of materials during prohibited times	Sec. 2 (2) (c)	\$125.00
18.	Cause/Permit Noise – operate motorized equipment during prohibited times	Sec. 2 (2) (d)	\$125.00
19.	Cause/Permit Noise - operate tool for domestic purpose during prohibited times	Sec. 2 (2) (e)	\$125.00
20.	Cause/Permit Noise – construction work during prohibited times	Sec. 2 (2) (f)	\$125.00
21.	Cause/Permit Noise – operate engine of motorized conveyance in excess of five minutes during prohibited times	Sec. 4 (1)	\$125.00

Note: The penalty provision for the offences listed above is section 9 of By-Law No. 15 -14, a certified copy of which has been filed and s.61 of the Provincial Offences Act, R.S.O. 1990, c.P.33, as amended.