

## BY-LAW NO. 29-2017

### A BY-LAW OF THE CORPORATION OF THE TOWN OF CARLETON PLACE, BEING A BY-LAW TO PROHIBIT UNUSUAL NOISES AND NOISE LIKELY TO DISTURB THE INHABITANTS OF A MUNICIPALITY

**WHEREAS** pursuant to Section 129 of the Municipal Act S.O. 2001, the Council of the Corporation of the Town of Carleton Place has the authority to enact a by-law governing unusual noises and noises likely to disturb the inhabitants and;

**WHEREAS** the Council of the Corporation of the Town of Carleton Place deems it expedient and necessary to regulate such noises;

**NOW THEREFORE** the Council of the Corporation of the Town of Carleton Place enacts as follows:

#### 1. DEFINITIONS

- 1.1 **Amplifier** means a device for making sounds, voices, or noises louder.
- 1.2 **By-law Enforcement Officer** means a By-law Enforcement Officer for the Town of Carleton Place.
- 1.3 **Construction** includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, the use of chainsaws, 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.
- 1.4 **Corporation** means the Corporation of the Town of Carleton Place.
- 1.5 **Council** means The Council for the Corporation of the Town of Carleton Place.
- 1.6 **Lawn Maintenance Equipment** means equipment which is operated by an engine or motor, either driven, hand pushed or held and includes lawnmowers, whipper snippers, lawn tractors, leaf blowers, bush hogs, brush chippers, hedge clippers, edgers and other similar devices used to landscape, cut, mow, trim or maintain ones own lawn, yard, garden or lot.
- 1.7 **Loudspeaker** means a device which produces sound.
- 1.8 **Microphone** means an instrument which can change sound waves into electric waves and can therefore be used to record voices or sounds.
- 1.9 **Municipality** means the Corporation of the Town of Carleton Place.

- 1.10 **Noise** means sound that is excessive, or of such volume or persistence that it has the effect or potential effect of disturbing inhabitants
- 1.11 **Persistence** means continuing to exist or endure over a prolonged period of time continuously or intermittently for an aggregate period of at least 20 minutes out of any 60 minute period.
- 1.12 **Plainly Audible** means the sound in question can be easily detected, without undue effort, by a disinterested person with no hearing disability.
- 1.13 **Police Officer** means an Officer of the Carleton Place Detachment of the Ontario Provincial Police
- 1.14 **Point of Reception** means any point on the premises of a person where noise or vibration originating from other than those premises is received.
- 1.15 **Public Address System** means any combination of equipment capable of producing or reproducing sound such as an amplifier, loudspeaker and microphone, whether being used for addressing or entertaining the public.
- 1.16 **Public Buildings** means any building owned or operated by any level of government, crown corporation or public utility. This definition shall also include hospitals and schools.
- 1.17 **Public Place** means any land owned or operated by any level of government, crown corporation or public utility. This definition shall also mean hospitals and schools.
- 1.18 **Urgent Necessity** shall mean that it is essential that work, noise, thing, or event etc continue or begin for the health, safety, or welfare for those involved including the community.

## 2. GENERAL PROVISIONS

- 2.1 No person shall ring any bell, blow or sound any horn or cause the same to be rung, blown or sounded; shout or create or permit unusual noises, or noises likely to disturb the residents of the community unless authorized by law or in accordance with good safety practices.

- 2.2 No person shall create or permit noise by playing radios, television sets, musical or a sound producing instrument or device of whatever kind which disturbs the peace, quiet, comfort or repose of the resident of the community and which noise is clearly audible at a point of reception.
- 2.3 No person shall keep birds or animals, the noise of whose crowing, cries, barking or other such sounds disturb the peace and comfort of the neighbourhood. The owner or person having the bird or animal under their control when the noise was generated is liable for the noise causing the disturbance.
- 2.4 No person shall cause or permit noise arising from construction between the hours of 10:00 p.m. and 6:00 a.m. the following day, except in the case of urgent necessity or emergency.
- 2.4.1 Notwithstanding Section 2.4, temporarily located de-watering pump operation may be allowed with authorization by the By-law Enforcement Officer.
- 2.4.2 Notwithstanding Section 2.4, no person shall cause or permit noise arising from construction between the hours of 10:00 p.m. and 8:00 a.m. the following day on the weekend or in the event of a statutory holiday, except in the case of urgent necessity or emergency.
- 2.5 No person shall cause or permit noise arising from lawn maintenance equipment between the hours of 10:00 p.m. and 6:00 a.m. the following day.
- 2.5.1 Notwithstanding Section 2.5, no person shall cause or permit noise arising from lawn maintenance equipment between the hours of 10:00 p.m. and 8:00 a.m. the following day on the weekend or in the event of a statutory holiday.
- 2.6 No person shall cause or permit any noise in the vicinity of any school, seminar of learning, court, or other such public buildings while the same is in session, or in the vicinity of any hospital or convalescent institution or rest home when such noise interferes with the undertaking of the same.
- 2.7 No person shall cause or permit any noise resulting from racing of any motorized conveyance other than in a racing event regulated by law.
- 2.8 No person shall cause or permit any noise resulting from the operation of a motor vehicle in such a way that the tires squeal.
- 2.9 No person shall cause or permit any noise resulting from 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, unless:

- 2.9.1 The original manufacturer specifically recommends a long idling period for normal and efficient operation of the motor vehicle (written documentation must be provided) in which case such recommended period shall not be exceeded.
  - 2.9.2 The operation of such engine or motor is essential to a basic function of the vehicle equipment, including but not limited to, operation of ready mixed concrete trucks, lift platforms and refuse compactors.
  - 2.9.3 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, and the vehicle is stationary for the purposes of delivery or loading, or emergency.
  - 2.9.4 Unless it is an urgent necessity or emergency.
- 2.10 Notwithstanding previously mentioned clauses in Section 2.9, but not including Section 2.9.4, no person shall cause or permit to be caused, noise resulting from the operation of an engine or motor in, or on, any motor vehicle or item of attached auxiliary equipment while such vehicle is stationary in a residential zone between the hours of 11:00 p.m. to 6:00 a.m. the following day.

### **3. EXCEPTIONS TO THE GENERAL PROVISIONS**

- 3.1 The use in a reasonable manner of any apparatus or mechanism for the amplification of the human voice of music in a park or any other public place in connection with any lawful and peaceable public meeting or gathering that has received written permission from the Facilities Operation Committee or any other persons or committees that may be directly or indirectly affected by the event shall be permitted.
- 3.2 Necessary work performed by municipal employees between the hours of 10:00 p.m. and 6:00 a.m. which otherwise performed during the day would be a hindrance to the community.
- 3.3 Any person or group may make an application for an exception for a case of urgent necessity.
- 3.4 All applications shall be submitted to the Director of Protective Services stating:
  - a) name of the applicant. It may be the name of an organization or group, etc.
  - b) the location or address where the noise will be originating from.
  - c) the reason why an exception to the provisions of this by-law is requested.
  - d) the name and phone number of a contact person.
- 3.5 The Director of Protective Services or his designate shall have the right to refuse to grant any exemption and/or impose such terms and conditions as deemed appropriate as part of the exception agreement.

- 3.6 Breach of any of the terms and conditions of a granted exception shall render the exception null and void.
- 3.7 This By-law shall not apply to noise heard through a common wall or floor in multi-unit residences unless such noise is plainly audible at a point of reception outside the residence.**
- 3.8 This By-law shall not apply to the operation of a generator during a power failure or other emergency.**

#### **4. ENFORCEMENT**

- 4.1 Any person who contravenes any of the provisions of this by-law and the procedures with respect thereto is guilty of an offence and the enforcement and the penalty imposed thereunder shall be subject to the provisions of *The Provincial Offences Act*, R.S.O. 1990, Chapter P.53 and the amendments thereto, and the penalty for the commission of any such offence shall be provided for in the said *Provincial Offences Act*.
- 4.2 This by-law shall be enforced by any By-law Enforcement Officer and/or by an Officer of the Carleton Place Detachment of the Ontario Provincial Police.
- 4.3 Enforcement Procedures – See Appendix “A”

#### **5. VALIDITY**

- 5.1 If any section or part thereof of this by-law for any reason is deemed invalid, the remaining parts of the by-law shall remain in effect until repealed.
- 5.2 Where provisions of this by-law conflicts with the provisions of another by-law in force in the municipality, the provisions that establish the higher standards to protect the health, safety and welfare of the general public prevails.
- 5.3 This By-law shall not take effect until an order regarding set fines have been approved by the appropriate Judge of the Ontario Court of Justice Provincial Division.

#### **6. SHORT TITLE**

- 6.1 This by-law may be referred to as The Noise By-law.

## 7. REPEAL OF BY-LAW

- 7.1 That By-law **27-2013** and amendments thereto prohibiting unusual noises and noise likely to disturb the inhabitants of the municipality be and is hereby repealed.

READ A FIRST TIME, SECOND TIME AND A THIRD TIME AND FINALLY PASSED THIS 9<sup>th</sup>, DAY OF MAY 2017.

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Louis Antonakos, Mayor

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D. H. Rogers, Clerk

## APPENDIX "A"

### ENFORCEMENT PROCEDURES

When the By-law Enforcement department receives a neighbourhood complaint regarding excessive or persistent noise the procedure described below will be followed

- A notice is sent to the owner and/or occupant of the property where the concern is located. Sometimes an owner/occupant may not be aware of the problem and this notice will be enough to correct the issue.
- At the same time a notice is sent to the complainant. At this stage, all information with respect to the complainant (i.e. name, address) is kept strictly confidential. However, if the noise continues to negatively impact them, the Town will require their involvement and cooperation to help bring closure to the matter.
- In order to gather evidence with respect to the noise which caused the complaint, the complainant is required to record the following information in a diary format
  - Type of noise (i.e. dog barking, machinery etc.)
  - How the noise is disturbing them
  - Their location on their property when they were disturbed
  - Information about the source of the noise
  - Time of day when the disturbance occurred
  - Duration of the noise
- Once the complainant has the above information for **at least ten occurrences within a 30 day period** when the noise has disturbed them they are requested to contact our office to discuss the possibility of charges being laid. **Please note that the ten occurrences must be after a formal complaint has been registered and the required notices have been sent.** This ensures that the owner/occupant has ample opportunity to take mitigating measures.
- The information collected by the complainant will be entered as evidence if by-law charges are laid. The complainant may be required to testify in court on the evidence in the presence of the occupant/owner of the property from which the noise originated. The complainant may also be asked questions by the alleged violator or their legal representative with respect to the evidence