

THE CORPORATION OF THE TOWNSHIP OF TUDOR AND CASHEL

BY-LAW NO: 2016-38

**Being a By-Law to regulate noise within the boundaries
of the Township of Tudor and Cashel**

WHEREAS the Council of The Corporation of the Township of Tudor and Cashel is empowered to pass By-Laws to regulate noise within the boundaries of the Municipality of Tudor and Cashel, pursuant to Section 129 (1) of the *Municipal Act, 2001*, S.O. 2001, c 25, as amended ;

AND WHEREAS Council deems it expedient to enact a By-Law to regulate noise within the boundaries of The Corporation of the Township of Tudor and Cashel;

AND WHEREAS Section 129 (1) of the *Municipal Act, 2001*, S.O. 2001, c.25, as amended, provides that Council may do so,

NOW THEREFORE the Council for The Corporation of the Township of Tudor and Cashel enacts as follows;

1. DEFINITIONS:

In this By-Law;

- a) **"Construction"** includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavation, blasting and detonation of explosive devices other than fireworks, 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 associated or related work;
- b) **"Council"** means the elected Municipal Council of The Corporation of the Township of Tudor and Cashel;
- c) **"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;
- d) **"Emergency vehicle"** includes a land ambulance, an air ambulance, a fire department vehicle, and a motor vehicle being used to respond to an emergency;
- e) **"Motor vehicle"** includes an automobile, bus, truck, motorcycle, motor assisted bicycle and any other vehicle propelled or driven other than by muscular power, but does not include a motorized snow vehicle, traction engine, farm tractor, other farm vehicle or road-building machine;
- f) **"Municipality"** means The Corporation of the Township of Tudor and Cashel;
- g) **"Noise"** means sound that is unusual or excessive, or that is unwanted by or disturbing to persons;
- h) **"Owner"** includes:
 - (a) the person, for the time being, managing or receiving the rent of the land or premises, in connection with which the word is used, whether on the person's own account or an agent or trustee of any other person, or who would so receive the rent is such land and premises were let, and;
 - (b) a lease or occupant of the property who, under the terms of a lease, is required to repair and maintain the property in accordance with the standards for the maintenance and occupancy of property

- i) **"Person"** includes a corporation as well as an individual and includes an owner;
- j) **"Premises"** means a piece of land and any buildings and structures on it, and includes a place of business, road, and any other location or place;
- k) **"Provincial Offences Officer"** means a Police Officer; a Constable appointed pursuant to any Act; a Municipal Law Enforcement Officer referred to in subsection 101 (4) of the Municipal Act, 2001; a By-Law Enforcement Officer of any municipality or of any local board of any municipality, while in the discharge of his or her duties; an officer, employee or agent of any municipality or of any local board of any municipality whose responsibilities include the enforcement of any by-law, an Act or a regulation under an Act, while in the discharge of his or her duties, or a person designated under subsection (3);
- l) **"Residence"** means a room, suite of rooms, or dwelling, including a mobile trailer, operated as a housekeeping unit that is used or intended to be used as a separate domicile by one or more persons, and that normally contains cooking, eating, living, sleeping and sanitary facilities;
- m) **"Road"** includes a public highway, private road, lane, pathway and sidewalk;
- n) **"Utility"** means a system that is used to provide a utility service to the public, including water, sewage, electricity, gas, communications networks and cable services;
- o) **"Vehicle"** includes a motor vehicle, trailer, traction engine, farm tractor, road-building machine and other vehicle propelled or driven other than by muscular power;
- p) **"Zoning By-Law"** means a by-law passed under section 34 of the Planning Act that restricts the use of land

2. GENERAL NOISE REGULATIONS

- 2.1 No person shall make, cause or permit to be made, any unnecessary noise or unnecessary sound which disturbs the quiet, peace, rest, enjoyment, comfort or convenience of any other person or is the result of any activities described in Schedule "A" and that is audible to:
 - (a) a person in a premises or vehicle other than the premises or vehicle from which the noise is originating; or
 - (b) a person in a residence other than the residence from which the noise is originating.

3. EXEMPTIONS

Emergency Vehicles

- 3.1 The provisions of this By-Law shall not apply to Police, Fire, Ambulance or other emergency vehicle proceeding to an emergency.

Special Events

- 3.2 The provisions of this By-Law shall not apply to person or organizations who have received written permission for the event from the Municipality.

The prohibitions described in Schedule "A" do not apply if the noise is the result of measures undertaken in an emergency for the:

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

(b) preservation or restoration of property, unless the noise is clearly of the longer duration or of a more disturbing nature than is reasonably necessary to deal with the emergency.

3.3. The prohibitions described in Schedule "A" do not apply if the noise is the result of any of the activities described in Schedule "B".

3.4. The prohibitions described in Schedule "A" do not apply if the noise is the result of an activity that has been granted an exemption under Section 3.

4. SCHEDULES

4.1. The following Schedules are attached and form part of this By-Law:

- (a) Schedule "A" – General noise prohibitions;
- (b) Schedule "B" – Exemptions from noise prohibitions

5. PENALTY PROVISIONS

5.1. Any person who contravenes the provision of this By-Law is guilty of an offence and, upon conviction, is subject to a fine as provided in the Provincial Offence Act and to any other applicable penalties.

5.2. If this By-Law has been contravened and a conviction entered, the court in which the conviction has been entered and any other court of competent jurisdiction thereafter may, in addition to any other remedy and to any penalty that is imposed, make an Order prohibiting the continuation or repetition of the offence by the person convicted.

6. ENFORCEMENT

6.1. This By-Law shall be enforced by a Provincial Offences Officer or any Other person appointed by Municipal Council.

7. SEVERABILITY

7.1. If a court of competent jurisdiction declares any provisions, of this by-law to be invalid, or to be of no force and effect, is the intention of council in enacting this by-law that each and every provision of this by-law authorized by law be applied and enforced in accordance with the terms to the extent possible according to law.

8. REPEALS

8.1. This By-Law hereby repeals By-Law11-09 and any other by-laws Inconsistent with this by-law are hereby repealed.

9. EFFECTIVE DATE

9.1. This By-Law shall take effect upon its adoption.

PASSED THIS 02ND DAY OF AUGUST, 2016

REEVE: WANDA DONALDSON

SEAL

CLERK: BERNICE CROCKER

SCHEDULE "A" to By-Law No. 2016-38

General Noise Prohibitions

1. The playing of any radio, public address system, electronic sound equipment, loud speaker, musical instrument or other sound producing equipment when the equipment is played or operated in such manner that the sound or noise made by or created thereby disturbs the peace, comfort or relaxation of any person, or a police officer acting in accordance with their duties.
2. The use of an amplifier or loud speaker carried in or attached to a motor vehicle being operated or standing on a public highway.
3. Operation of a combustion engine or pneumatic device without an effective exhaust muffling device that is in good working order and in constant operation.
4. Operation of any item of construction equipment without an effective exhaust muffling device that is in good working order and in constant operation.
5. Operation of a vehicle in a manner that results in banging, clanking, squealing or similar sounds because of inadequate maintenance or any improperly secured load.
6. The deliberate and unnecessary acceleration, rapid turning or rapid braking of a motor vehicle.
7. Operation of any outdoor auditory signaling device, including, but not limited to outdoor paging systems, the ringing of bells or gongs, the use of sirens, whistles or chimes, 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 practice.
8. Persistent barking, calling or whining or other similar persistent noise making by animals and birds kept as household pets, which disturbs the peace or relaxation of any person in another occupied dwelling.
9. Yelling, shouting, hooting or similar noise that disturbs or prohibits the peace and enjoyment of any person occupying a neighboring property.
10. Setting off of fireworks after 11:00 p.m. and before 9:00 a.m., or any time a fire ban is posted
11. Any unnecessary noise arising between the hour of 7:00 p.m. and 7:00 a.m. of the next following day from an excavation or construction work, including the erection, demolition, alteration or repair of any building authorized by the Corporation, except in case of urgent necessity and then under a permit from the Chief Building Official.
12. Operation of an engine or motor in, or on, any vehicle or item of attached auxiliary equipment for a continuous period of more than five minutes, or such other time limit specified in the by-law controlling the idling of vehicles and boats, while such vehicle is stationary in a residential area, unless:
 - a. The vehicle is in an enclosed structure constructed so as to effectively prevent the emission of excessive noise;
 - b. Continuous operation of the engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to the operation of ready-mixed concrete trucks, lift platforms, refuse compactors and heat exchange systems during normal operation;
 - c. Weather conditions justify the use of heating or refrigeration systems powered by the motor or engine for the safety and welfare of the operator, passengers or animals, or the preservation of perishable cargo.

SCHEDULE "B" to By-Law No. 2016-38

Exemptions from the Noise Prohibitions

1. Operation of emergency vehicles.
2. Operation of municipal service vehicles and related equipment.
3. Operation of utility service vehicles and related equipment.
4. Authorized displays of fireworks.
5. Circuses and midways that have been authorized by the Municipality.
6. Races, parades, processions, concerts, events for ceremonial, religious or traditional purposes, cultural, recreational, educational and political events in parks and other public places that have been authorized by the Municipality and by the police.
7. Operation of bells, chimes, carillons and clocks in churches and public buildings.
8. Cultural, recreational, educational and political events in parks and other public places that have been authorized by the Municipality.
9. Neighborhood events on municipal highways and other municipal property that have been authorized by the Municipality.
10. Agricultural activities on agricultural properties.