

THE CORPORATION OF THE TOWN OF WASAGA BEACH

BY-LAW NO 2024-45

A By-law to control Noise within the Municipality and to repeal By-law 2019-15.

WHEREAS Section 11(2) of the Municipal Act permits a municipality to pass by-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property;

AND WHEREAS section 128 of the Municipal Act permits a municipality to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of council, are or could become or cause public nuisances;

AND 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 434.1(1) of the Municipal Act, 2001, S.O. 2001 c. 25, enables a municipality to require a person, subject to such conditions as the municipality considers appropriate, to pay an administrative penalty if the municipality is satisfied that the person has failed to comply with a by-law of the municipality passed under this Act;

AND WHEREAS Council has deemed that certain routine administrative and legislative powers are minor in nature, and the delegation of these powers would contribute to the efficient management of the Town while still adhering to the principles of accountability and transparency;

AND WHEREAS the Town has passed an Administrative Monetary Penalties System By-law;

NOW THEREFORE the Council of the Corporation of the Town of Wasaga Beach HEREBY ENACTS as follows:

1. SHORT TITLE

- 1.1. This By-law may be cited as the "Noise Disturbance By-law."

2. DEFINITIONS

- 2.1. "**A-weighted Sound Pressure Level**" is the sound pressure level modified by application of the A-weighting. It is measured in decibels, A-weighted, and denoted dBA.
- 2.2. "**Administrative Monetary Penalties**" means fines or sanctions imposed as

a consequence for violating by-laws and regulations for the purpose of enforcing compliance with the by-laws and regulations of the Town of Wasaga Beach.

- 2.3. **"AMPS By-law"** means the Town's Administrative Monetary Penalties By-law, as may be amended from time to time.
- 2.4. **"By-law"** means this Noise Disturbance By-law;
- 2.5. **"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;
- 2.6. **"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;
- 2.7. **"Construction Site"** means the area or portion of land used for construction or any other area used for any purpose related to the construction or for any related purpose;
- 2.8. **"Council"** means the Council of The Corporation of the Town of Wasaga Beach;
- 2.9. **"Decibel"** the "decibel" is a dimensionless measure of sound level or sound pressure level;
- 2.10. **"Director"** means the General Manager – Development Services, or his/her designate or successor;
- 2.11. **"Domestic Works"** means any Construction, renovation or repair being completed by an Owner to his or her own property;
- 2.12. **"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;

- 2.13. **"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;
- 2.14. **"Holiday"** has the same meaning as in the *Retail Business Holidays Act*, R.S.O. 1990, c. R.30, as amended;
- 2.15. **"Nuisance Noise"** Notwithstanding certain sounds are permitted by Appendix "A", any use of sounds that is excessive, alarming, unusual or annoying to two or more residents or visitors from different properties, or noise that does exceed 90 dBA from more than 15 meters from the property line, or based upon the cumulative considerations of all factors including the nature and frequency of complaints, environmental conditions and any extenuating or aggravated circumstances including any medical conditions;
- 2.16. **"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;
- 2.17. **"Owner"** includes an assessed owner, tenant, occupant or any person having an interest, whether equitable or legal, in the land or premises;
- 2.18. **"Permitted Hours"** as defined and outlined by Schedule A of this by-law.
- 2.19. **"Person"** means an individual, corporation or other legal entity;
- 2.20. **"Point of Reception"** means any point on the premises of a person where sound originating from other than those premises is received;
- 2.21. **"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;
- 2.22. **"Residential Lands"** shall mean those lands set out in the Town's Zoning By-law that are designated R1, R2, RE or RM, R4 including any "Holding" variations of same, but does not include lands designated as Tourist Commercial (CT) or Commercial Accommodation (CA);
- 2.23. **"Sound Amplifying System"** means any system of loudspeakers, amplifiers, microphones or reproducers or any combination of such equipment, including electronic devices or electro-mechanical transducers, used in the reproduction or amplification of music, speech or other sounds;

- 2.24. **“Sound Level”** the “sound level” is the sound level of an impulsive sound as measured with an Impulse Sound Level Meter set to impulse response. It is measured in A-weighted decibels, denoted dBA.
- 2.25. **“Sound Level Meter”** is an instrument which is sensitive to and calibrated for the measurement of sound;
- 2.26. **“Town”** means The Corporation of the Town of Wasaga Beach;
- 2.27. **Vibration** shall mean a repetitive motion that causes a surface to transfer energy into another surface, person, or object that is detected by touch, visual or auditory senses.
- 2.28. **“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 4.1 of this By-law.
- 3.2. No person without lawful authority, within the Town shall make, cause, be a party to the act, or permit any nuisance noise, regardless if it would otherwise be in the “permitted hours” of the Appendix A (Time & Place Sounds);

4. PROHIBITIONS BY TIME

- 4.1. No person shall emit, cause or permit the emission of noise from any activity set out in **Schedule "A"** to this By-law.

5. EXCEPTIONS

- 5.1. This By-law does not apply;
- 5.1.1. during an Emergency
- 5.1.2. to the Town, including any Town Events, operations, services or activities;
- 5.1.3. to any snow clearing and maintenance undertaken by the operation of vehicles, equipment and construction equipment for the clearing and removal of snow from public and private property.
- 5.1.4. to the provincial or federal government;

- 5.1.5. to a public utility;
- 5.1.6. to the use of bells or chimes associated with any church, chapel, meeting house or religious service;
- 5.1.7. 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;
- 5.1.8. to noise within a Commercial Zone unless otherwise prohibited as outlined in Schedule "A", as defined by the applicable zoning by-law, and is not otherwise regulated within this or any other Town by-law or agreement; and
- 5.1.9. 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. POWER OF ENTRY

- 6.1. Officers shall have the right to enter and inspect property pursuant to the Municipal Act, 2001, sections 444 and 445, and set out in the Municipal By-law.
- 6.2. No person shall obstruct or attempt to obstruct any Officer or other person, who is exercising a power or performing a duty under this By-law or any other Town of Wasaga Beach By-law or the Municipal Act, 2001, S.O. 2001, c. 25, as amended or its predecessor.

7. ENFORCEMENT

- 7.1 If a Municipal Law Enforcement Officer is satisfied that a violation or contravention of the By-Law has occurred, the Municipal Law Enforcement Officer shall serve written notice in accordance with sections 444, 445 & 446 of the Municipal Act, 2001, as may be amended from time to time.
- 7.2 Any notice given under this By-Law may be given by regular mail or personal delivery. Delivery by regular mail shall be deemed to have been affected five (5) calendar days after mailing.

8. PENALTY

8.1. Every person who contravenes any of the provisions of this by-law shall be subject to the Town’s AMPS By-law.

9. VALIDITY AND SEVERABILITY

9.1. Every provision of this By-law is declared to be severable from the remainder and if any provision of this By-law shall be declared invalid by a court of competent jurisdiction such declaration shall not affect the validity of the remainder.

10. DELEGATED AUTHORITY

10.1 The Director is authorized to make minor housekeeping amendments to this by-law that that do not alter the meaning or intent in any way.

11. REPEAL

11.1. By-Law #2016-97 is hereby repealed.

12. EFFECTIVE DATE

12.1 This By-law shall come into force and take effect on the date of its passing.

BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS DAY OF 13th DAY OF JUNE, 2024.

THE CORPORATION OF THE TOWN OF WASAGA BEACH

Brian Smith, Mayor

Nicole Rubli, Director, Legislative Services & Clerk

