

**THE CORPORATION OF THE TOWNSHIP OF MUSKOKA LAKES**

**BY-LAW NO. 2005-83**

Being a By-law to control noise.

**WHEREAS** it is expedient to exercise the power conferred upon the Council by the Municipal Act, 2001 Sections 8, 11, 128 and 129; and

**WHEREAS** a recognized body of scientific and technological knowledge exists by which sound may be substantially reduced; and

**WHEREAS** the inhabitants of the Township should have an environment free from unusual, unnecessary or excessive noise which may degrade the quality and tranquility of their life or cause nuisance, in the public interest; and

**WHEREAS** it is the policy of the Council to reduce and control such noise; and

**WHEREAS** Section 10 of the Act permits by-laws to deal differently with different classes of persons or businesses; and

**WHEREAS** Council acknowledges the necessity to set criteria for exemptions from the prohibitions in this By-law, and intends to commission a study to determine such criteria, consistent with its obligations under the Official Plans of the Township and the District Municipality, which require promotion of the tourist economy within appropriate limits and controls;

**NOW THEREFORE** the Council of the Corporation of the Township of Muskoka Lakes **ENACTS AS FOLLOWS:**

1. INTERPRETATION

Definition

In this by-law,

a) Construction

“construction” includes erection, alteration, repair, dismantling, demolition, structural maintenance, painting, moving, land clearing, earth moving, grading, excavating, blasting, rock crushing, 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 material in any form or for any purpose and includes any work in connection therewith;

b) Construction Equipment

“construction equipment” means any equipment or device designed and intended for use in construction or material handling, including but not limited to, air compressors, 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;

c) Conveyance

“conveyance” includes a motor vehicle and any other device employed to transport a person or persons or goods from place to place but does not include any such device or vehicle if operated only within a building;

d) Council

“Council” means the Council of the Corporation of the Township of Muskoka Lakes;

e) Highway

“highway” includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle designed and intended for, or used by, the general public for the passage of vehicles;

f) Motor Vehicle

“motor vehicle” includes an automobile, motorcycle, and any other vehicle propelled or driven otherwise than by muscular power; but does not include the cars of electric or steam railways, or the motor vehicles running only upon rails, or a traction engine, farm tractor, self-propelled implement of husbandry or road-building machine within the meaning of the Highway Traffic Act;

g) Motorized Conveyance

“motorized conveyance” means a conveyance propelled or driven otherwise than by muscular, gravitational or wind power;

h) Noise

“noise” means a sound prohibited by this by-law.

i) Point of Reception

“point of reception” means any point on the premises of a person where sound originating from other than those premises is received;

j) Public Park

“public park” means any open space or recreational area, owned or controlled by the Corporation of the Township of Muskoka Lakes or any board, commission or other authority established under any statute of the Province of Ontario and may include one or more athletic fields, field houses, community centres, bleachers, swimming pools, bandstands, skating rinks, tennis courts, bowling greens, boat liveries, bathing stations, curling rinks, refreshment rooms, fair grounds, arenas or similar uses.

k) Township

“Township” means the Corporation of the Township of Muskoka Lakes.

l) Zone 1

“Zone 1” means every area designated by zoning by-law as Residential – R1, Residential R2, Residential R3, Residential R4, Residential R5, Residential R6, Multiple Residential RM1, Multiple Residential RM2 or Institutional I in the Township; and every area within a Community Commercial zone designated by zoning by-law in which there is one or more dwelling units as defined by zoning by-law.

m) Zone 2

“Zone 2” means every area designated by zoning by-law as Waterfront Residential WR, Waterfront Residential WR1, Waterfront Residential WR2, Waterfront Residential WR3, Waterfront Residential WR4, Waterfront Residential WR5, Waterfront Residential WR6, Waterfront Residential WR8, Waterfront Landing WL, Waterbody Open Space WOS, or Environmental Protection EP1 or EP2 in the Township.

n) Zone 3

“Zone 3” means every area designated as Rural Ru1, Rural Ru2, Rural Ru3, Rural Residential RuR, Open Space OS1, Open Space OS2, Open Space OS3, Open Space OS4 or General Restricted GR in the Township.

2. PROHIBITION

No person shall emit or cause or permit the emission of sound resulting from any act listed in Schedule 1 – General Prohibitions, and which sound is clearly audible at a point of reception.

3. LIMITATIONS BY TIME AND PLACE

No person shall emit or cause or permit the emission of sound resulting from any act listed in Schedule 2 – Prohibitions by Time and Place, which is clearly audible at a point of reception located in a Zone specified in Schedule 2 within the prohibited time shown for such Zone.

4. EXEMPTION

a) Public Safety

Despite any other provision of this by-law, it is lawful to emit or cause or permit the emission of sound in connection with emergency measures undertaken;

- i) for the immediate health, safety or welfare of the inhabitants or any of them;
- ii) for the preservation or restoration of property;

unless such sound is clearly of a longer duration, or nature more disturbing than is reasonably necessary, for the accomplishment of such emergency purpose.

5. EXEMPTIONS - GENERAL

- a) Pending the development of criteria for exemptions, general exemptions from the terms of this By-law are not authorized. There is no fixed date by which such criteria must be developed.
- b) Nothing in this section prevents any person from making an application to Council at any time for the passage of a by-law which will establish exemption criteria for a class of persons or a class of businesses, pending completion of the development of criteria for exemptions generally.

6. EXEMPTION OF TRADITIONAL, FESTIVE OR RELIGIOUS ACTIVITIES

This by-law does not apply to a person who emits or causes or permits the emission of sound in connection with any of the traditional, festive, religious and other activities listed below:

- a) the use of an apparatus or mechanism for the amplification of the human voice or of music in a public park or recreational area under the control and management of the Township in connection with any public election meeting, public celebration or other lawful gathering, provided that written permission of Council to hold such meeting, celebration or gathering has been first obtained under any applicable by-law of the Township.
- b) Any band or parade, provided that written permission of Council to operate such band or hold such parade has been first obtained under any applicable by-law of the Township.
- c) The use of church bells or chimes normally associated with church activities.
- d) All activities permitted by Council associated with an event authorized by Council.

7. EXEMPTIONS – TOURIST ENTERTAINMENT OPERATIONS

- a) For the purposes of this section, music includes singing, chanting, the playing of musical instruments, and the emission of sound from electronically amplified speakers.
- b) For the purposes of this section, a tourist entertainment operation is a business which provides music (live or recorded) and serves alcoholic beverages to the general public for compensation.
- c) Pending the development of further criteria for tourist entertainment operations, a tourist entertainment operation is not in contravention of Schedule 2 section 2 of this By-law if all of the following are satisfied:
  - (i) no music is produced or emitted outside each building used by the operation.
  - (ii) the windows of each such building are kept closed during the production or emission of music within the building.
  - (iii) the production or emission of music ends no later than 1:30 a.m.
- d) The exemptions provided by subsection (c) of this section apply only to the prohibition in Schedule 2 section 2, and do not apply to any other prohibition in this By-law.

8. SCHEDULES

The Schedules to this by-law form part of the by-law.

9. PENALTY

Every person who contravenes any of the provisions of this by-law is guilty of an offence and shall, upon conviction thereof, be subject to the penalties set out in the Provincial Offences Act.

10. SET FINES

Every person guilty of an offence under this by-law may, if the procedure is commenced by filing a certificate of offence under the Provincial Offences Act, pay a set fine as approved by the appropriate Justice of the Ontario Court of Justice.

11. SEVERABILITY

If a Court of competent jurisdiction should declare any section or part of a section of this by-law to be invalid, such section or part of a section shall not be construed as having persuaded or influenced Council to pass the remainder of the by-law and it is hereby declared that the remainder of the by-law shall be valid and shall remain in force.

12. REPEAL OF BY-LAWS

By-law 2003-23 is hereby repealed.

13. ENFORCEMENT

Nothing herein shall limit the ability of the Ontario Provincial Police to enforce this by-law at any time.

READ a first and second time this 1<sup>st</sup> day of June, 2005

READ a third time and finally passed this 1<sup>st</sup> day of June, 2005

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Clerk – Cheryl Mortimer

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Mayor – Susan Pryke

## **SCHEDULE 1**

### **Attached to and forming part of By-law 2005-83**

#### **General Prohibitions**

The following activities are subject to prosecution pursuant to Section 2 of the by-law, if audible at a point of reception:

1. 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 Zone 1 unless:
  - a) the original equipment manufacturer specifically recommends a longer idling period for normal and efficient operation of the motor vehicle in which case such recommended period shall not be exceeded; or
  - b) operation of such engine or motor is essential to a basic function of the vehicle or equipment, including but not limited to, operation of ready-mixed concrete trucks, lift platforms and refuse compactors; or
  - 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; or
  - d) prevailing low temperatures make longer idling periods necessary, immediately after starting the motor or engine; or
  - e) the idling is for the purpose of cleaning and flushing the radiator and associated circulation system for seasonal change of antifreeze, cleaning of the fuel system, carburetor or the like, when such work is performed other than for profit.
2. Barking, whining or other similar persistent sound made by a dog or a domestic pet, for a continuous period exceeding thirty (30) minutes, in any part of the Township. The owner of the dog or pet and any other person having control over it at the time of emission of the sound is liable for contravention of this by-law.
3. Yelling, shouting, hooting, whistling, singing or other similar human sound in any part of the Township between 23:00 hours (11:00 p.m.) and 07:00 hours (7:00 a.m.) the following day.

**SCHEDULE 2**

**Attached to and forming part of By-law 2005-83**

**Prohibition by Time and Place**

The following activities are subject to prosecution pursuant to section 3 of the by-law, if audible at a point of reception in the Zone indicated.

	<u>Prohibited Period of Time</u>		
	<u>Zone</u> 1	<u>Zone</u> 2	<u>Zone</u> 3
1. The detonation of fireworks or explosive devices not used in construction.	A	A	A
2. 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.	A	A	A
3. The operation of any auditory signaling device, including but not limited to the ringing of bells or gongs and the blowing of horns or sirens or whistles, 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 practices.	B	B	B
4. The operation of any construction equipment or in connection with construction; or the operation of a chain saw.	C	C	C
5. The operation of any combustion engine which is used in, or is intended for use in a toy or model or replica of a larger device, which model or replica has no function other than amusement and which is not a conveyance.	A	A	A
6. The operation of any motorized conveyance other than on a highway or authorized snowmobile trail.	A	A	A
7. The operation of any powered or non-powered tool for domestic purposes other than snow removal.	A	A	A

**Prohibited Periods of Time**

**A – 23:00 one day to 07:00 next day (11:00 p.m. to 7:00 a.m.)**

**B – 21:00 one day to 07:00 next day (9:00 p.m. to 7:00 a.m.)**

**C – 21:00 one day to 06:00 next day Sunday to Friday, 21:00 one day to 09:00 next day Saturday (9:00 p.m. to 6:00 a.m. Sunday to Friday; 9:00 p.m. Saturday to 9:00 a.m. next day)**