

# THE CORPORATION OF THE TOWN OF BLIND RIVER

## BY-LAW NO. 21-24

Being a By-law to Control Noise in the Town of Blind River.

**WHEREAS** pursuant to Section 11 of the Municipal Act, S.O. 2001 (the Act), a municipality may regulate matters involving the health, safety and well-being of others; and

**WHEREAS** pursuant to Section 129 of the Act, a local municipality may prohibit and regulate with respect to noise; and

**WHEREAS** pursuant to Section 425 of the act, a municipality may pass by-laws providing that a person who contravenes a By-law of the municipality passed under this Act is guilty of an offence; and

**WHEREAS** pursuant to Section 426 of the Act, no person shall hinder or obstruct, or attempt to hinder or obstruct any person who is exercising a power or performing a duty under a By-law passed under this Act; and

**WHEREAS** pursuant to Section 429 of the Act, a municipality may establish a system of fines for offences under a By-law of the municipality passed under this Act; and

**WHEREAS** pursuant to Section 436 of the Act, a municipality has the power to pass by-laws providing that the municipality may enter on land at any reasonable time for the purpose of carrying out an inspection to determine whether a By-law of the municipality passed under the Act is being complied with; and

**WHEREAS** noise is recognized as a form of pollution under the “Environmental Protection Act, R.S.O. 1990, CHAPTER E-19”; and

**WHEREAS** the Council of the Town of Blind River deems it necessary and expedient to regulate or prohibit noise within the Town which is likely to disturb the inhabitants and become a public nuisance; and

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF BLIND RIVER ENACTS AS FOLLOWS:**

## 1. DEFINITIONS

In this By-Law

- 1.1 **“Appliance”** means a household device whether fixed or portable;
- 1.2 **“Applicant”** means a person submitting a Noise By-Law Exemption Application under this By-Law;
- 1.3 **“By-Law Enforcement Officer”** means a person who is appointed by Council to enforce by-laws enacted and passed by Council;
- 1.4 **“CAO/Clerk”** – means the CAO/Clerk for the Corporation of the Town of Blind River duly appointed under the Municipal Act, R.S.O. 1990, Chapter M.45, as amended.
- 1.5 **“Construction”** includes assembly, alteration, repair, demolition, dismantling, structural maintenance, painting, land clearing, earth moving, grading, excavating, laying of pipe or conduit, street and highway building, concreting, equipment installation, alteration and the structural installation of Construction components and materials in any form or for any purpose and includes any work in connection therewith;
- 1.6 **“Construction Equipment”** means any equipment or device designed and intended for use in Construction or material handling, including but not limited to, air compressors, pile drivers, pneumatic or hydraulic tools, bulldozers, tractors, excavators, trenchers, forklifts, cranes, derricks, loaders, scrapers, pavers, generators, Off-Highway haulers or trucks, ditchers, compactors and rollers, pumps, concrete mixers, graders, or other material handling equipment;
- 1.7 **“Continuous Barking”** means the barking of a dog that occurs for an uninterrupted period of ten minutes or more or on a sporadic basis of fifteen minutes or more in any continuous thirty-minute time period;
- 1.8 **“Council”** means the Council of The Corporation of the Town of Blind River;
- 1.9 **“Electronic Device”** means a device intended primarily for the production, reproduction or amplification of Sound, including, but not

limited to, any musical instrument, radio receiver, television receiver, recorder, loudspeakers, amplifiers, microphones or reproducers of any combination of such equipment, including devices used in the reproduction of music.

- 1.10 **“Highway”** as defined in the Highway Traffic Act, R.S.O. 1990, c.
- 1.11 **“Motor Vehicle”** as defined in the Highway Traffic Act, R.S.O. 1990, c. H.8;
- 1.12 **“Motorized Conveyance”** means any vehicle and any other device employed to transport a Person, Persons or goods from place to place propelled or driven otherwise than by muscular, gravitational or wind power, but does not include any such device or vehicle if operated only within a building;
- 1.13 **“Noise”** means unwanted sound that is generated within the Town and is likely to disturb an inhabitant of the Town, or neighbouring municipality;
- 1.14 **“Noise By-law Exemption Application”** means an Application requesting to be exempt from the Noise By-law or portions thereof, as amended;
- 1.15 **“Normal Practice”** means the Noise associated with performing a task that is typical or common practice;
- 1.16 **“Person”** means any person and includes a corporation and the heirs, executors, administrators or other legal representatives of a person for whom the context can apply according to law;
- 1.17 **“Point of Reception”** means any point on the premises of a person, where noise originating from other than those premises is received;
- 1.18 **“Premises”** means land and includes the buildings and/or structures thereon;
- 1.19 **“Special Event”** includes a demonstration, parade, sports event, festival, carnival and other like events

1.20 **“Special Event Permit”** means permission given by the Town to an Applicant to hold a Special Event;

1.21 **“Statutory Holiday”** as defined in the Retail Business Holiday Act R.S.O. 1990, Chapter R.30;

1.22 **“Town”** means the Corporation of the Town of Blind River;

1.23 **“Waste”** means any material, substance or by-product that is discarded and includes recyclables;

## **2. General Prohibitions**

2.1 No Person shall emit, cause or permit the emission of Noise resulting from any activity listed in Schedule “A”, attached hereto, if clearly audible at a Point of Reception.

## **3. Prohibitions by Time**

3.1 No person shall, within the prohibited time shown in Schedule “B”, attached hereto emit, cause or permit the emission of noise which is clearly audible at a point of reception resulting from an act or emanating from a device listed in Schedule “B”.

## **4. General Exemptions**

4.1 This By-law shall not apply to a person who emits, causes or permits the emission of Noise in connection with any of the activities listed in schedule “C” attached hereto this By-law.

## **5. Noise By-law Exemption Process**

5.1 Notwithstanding the prohibitions contained in this by-law, any Person may submit a Noise By-law Exemption Application to the Town. The Town may approve, approve with conditions or refuse to approve a noise By-law Exemption application. An approved Noise By-law Exemption Application shall specify the time period, not in excess of six (6) months, during which it is effective and may contain such terms and conditions as the Town sees fit.

- 5.2 To initiate the process for a Noise By-law Exemption Application, an Applicant shall submit the prescribed form which is available from the Town with the following information prescribed in Schedule "D". Form must be received no later than thirty (30) days prior to the event.
- 5.3 No Person shall make a false or misleading recital or fact, statement or representation on a Noise By-law Exemption Application.
- 5.4 Upon receipt of a Noise By-law Exemption Application, the CAO/Clerk shall schedule the matter for consideration on the next scheduled Committee Meeting agenda and shall notify the Applicant of the scheduling details. The Applicant and any other persons wishing to speak to the matter shall be given the opportunity to delegate the matter before the Committee.
- 5.5 An exception will be made for any Construction work project applications that are received, due to time restrictions the CAO/Clerk may issue a Noise By-law Exemption Permit without a council resolution. Council will be made aware of the issued permit during the next scheduled council meeting.
- 5.6 At the Committee meeting, the onus is on the Applicant to show cause why the Noise By-law Exemption Application should be approved with or without Conditions,
- 5.7 Where the Applicant has been provided with notification of the General Committee meeting and does not attend, the Committee may proceed to deal with the matter in the absence of the Applicant.
- 5.8 The Committee shall hear the evidence and ask questions of the By-law Enforcement Officer, the Applicant if present, and any other Person permitted to be heard.
- 5.9 After hearing all of the evidence and submissions, the Committee shall debate the matter send recommendations to Council.
- 5.10 The decision made by Council shall be confirmed by resolution and is final.

- 5.11 A copy of the resolution shall be mailed to the Applicant or be personally served to them.
- 5.12 Where a Noise By-law Exemption Application is approved, with or without Conditions, no Person shall have a vested right to its continuation or re-issuance.
- 5.13 The term of the approval of any Noise By-law Exemption Application shall be indicated on the Noise By-law Exemption Permit. After such time the Noise By-law Exemption Permit shall become null and void.
- 5.14 The Town may revoke an approved Noise By-law Exemption Permit when:
- a) The Applicant cannot satisfy the terms required for the Noise By-law Exemption permit being sought;
  - b) The Noise By-law Exemption Permit holder has failed to remedy any reasonable concern with regard to conditions of a Noise By-law Exemption Permit;
  - c) The Applicant has failed to comply with any requirements of this or any other applicable By-law, or any Provincial or Federal statute or regulation;
  - d) The Applicant made a material misrepresentation in their Noise By-law Exemption Application or supporting documentation;
  - e) The Applicant is not complying with any Terms or Conditions of the approved Noise By-law Exemption Permit; or
  - f) The Applicant may have, since receiving the Noise By-law Exemption Permit, acted in a manner that would appear to give rise to issues relating to the specific grounds for consideration.
- 5.15 Notice of Revocation of a Noise By-law Exemption Permit issued shall be in written form and may be communicated to the Applicant by a By-law Enforcement Officer or designate via any one of the following approved methods:
- a) Personal service to the Applicant;
  - b) Mailing the notice through registered mail to the Applicant at the address noted on the Noise By-law Exemption Application. When notice of the Noise By-law Exemption Permit revocation is communicated to the Applicant via regular mail, the Noise By-law

Exemption Permit shall be deemed to be suspended or revoked five (5) business days after mailing.

- 5.16 Where a Noise By-law Exemption Permit is revoked, the Applicant must cease the activity causing the Noise for which they have been exempted and may submit a written appeal to the revocation with the CAO/Clerk within five (5) calendar days of receipt of the Notice of Revocation.
- 5.17 Upon receipt of a written appeal to Noise By-law Exemption Permit revocation, the CAO/Clerk shall schedule the matter for consideration on the next Committee Meeting agenda and shall notify the Applicant of the scheduling details. The Applicant shall be given the opportunity to delegate the matter before the Committee.
- 5.18 At the Committee meeting, the onus is on the Applicant to show cause why the Noise By-law Exemption Permit should not be revoked.
- 5.19 Where the Applicant has been provided with notification of the Committee meeting and does not attend, the Committee may proceed to deal with the matter in the absence of the Applicant.
- 5.20 The Committee shall hear the evidence and ask questions of the By-law Enforcement Officer, the Applicant if present, and any other person permitted to be heard.
- 5.21 After hearing all of the evidence and submissions, the Committee shall debate the matter and reach a decision,
- 5.22 The decision made by the Committee shall be confirmed by resolution and is final.
- 5.23 A copy of the resolution shall be mailed to the Applicant or be personally served to them.

## **6. Entry and Inspection**

- 6.1 A By-law Enforcement Officer or their designate may at any time, enter onto a property to determine whether this By-law is being complied with.

6.2 Every Person shall permit a By-law Enforcement Officer to inspect any land for the purposes of determining compliance with this By-law.

## **7. Obstruction**

7.1 No person shall hinder or obstruct, or attempt to hinder or obstruct, any By-law Enforcement Officer exercising a power or performing a duty under this By-law.

7.2 Every Person who has been alleged to have contravened any of the provisions of this By-law, shall identify themselves to a By-law Enforcement Officer upon request, failure to do so shall be deemed to have hindered or obstructed a By-law Enforcement Officer under section 7.1 of this By-law.

## **8. Penalties**

8.1 Every person who contravenes any provision of this By-law is guilty of an offence and on conviction is liable to a fine as provided for in the Provincial Offences Act. R.S.O. 1990, c.33.

8.2 Every person who contravenes any provision of this By-law is guilty of an offence pursuant to the provisions of the Provincial Offences Act. R.S.O. 1990, Chapter P.33, as amended, and upon conviction, a person is liable to a fine of not more than \$5,000, exclusive of costs.

## **9. Severability**

9.1 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 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.

## **10. Enforcement**

10.1 Nothing herein shall be deemed to limit the ability of the Ontario Provincial Police to enforce this By-law at any time.



**11. Schedules**

11.1 Schedules A, B, C and D are attached and form part of this By-law.

**12. Repeal of By-law**

12.1 That By-law No. 1590 and any amendments thereto are hereby repealed.

PASSED IN OPEN COUNCIL THIS 3<sup>rd</sup> DAY OF MAY, 2021.

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
CAO/Clerk

CERTIFICATION BY THE CLERK:

I, K. Scott, CAO/Clerk of the Corporation of the Town of Blind River, do hereby certify that the above is a true certified copy of By-Law No. 21-24 which was passed in Open Council on the 3<sup>rd</sup> day of May, 2021.

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K. Scott

### **Schedule "A"**

No person shall emit, cause or permit the emission of Noise resulting from an act listed below, which is clearly audible at Point of reception:

1. The operation of any electronic device or group of connected electronic devices incorporating one or more loudspeakers or other electromechanical transducers, and intended for the production, reproduction or amplification of sound;
2. The operation of any Construction Equipment, combustion engine or pneumatic device without an original equipment manufacturer specification exhaust or intake muffling device in good working order and in constant operation;
3. Revving of any Motor Vehicle or Motorized conveyance engine except as required for by a licenced mechanic inside a place of business designated as an automotive repair business;
4. The operation of a Motor Vehicle or Motorized conveyance in such a way that the tires squeal;
5. The operation of a Motor Vehicle or Motorized Conveyance horn or other waring device except where required or authorized by law or in accordance with good safety practices.
6. Residential domestic activities that produce sound of such nature that is unwanted, on-going, persistent, unusual, repetitive, a public nuisance that disturbs a person at a Point or Reception;
7. Continuous barking.

**Schedule "B"**

	<b>Column 1</b>	<b>Column 2</b>
<b>Item</b>	<b>Activity</b>	<b>Prohibited Period of Time: (Each and every day)</b>
1.	The operation of any Construction Equipment or in connection with Construction.	1900 hours (7:00pm) of one day to 0700 hours the next day and all day on Sunday or on any statutory holiday
2.	The operation of any powered or non-powered tool, equipment or Appliance for domestic purpose other than snow removal or grass cutting .	1900 hours (7:00pm) of one day to 0700 hours the next day (12 Noon on Sundays)
3.	The loading, unloading, packing, unpacking, delivering or otherwise handling or cutting of any container, product material, waste or recyclables unless necessary for the maintenance of essential services.	1900 hours (7:00pm) of one day to 0700 hours the next day and all day on Sunday or on any statutory holiday
4.	The operation of material bulk lift, compacting, crushing or shredding equipment.	1900 hours (7:00pm) of one day to 0700 hours the next day and all day on Sunday or on any statutory holiday
5.	The operation of a toy, model or replica of a larger device, that has no function other than amusement and which is not a motor vehicle.	1900 hours (7:00pm) of one day to 0700 hours the next day (12 Noon on Sundays)
6.	The operation of an Electronic Device.	2200 hours (10:00pm) of one day to 0700 hours the next day (12 Noon on Sundays)
7.	The operation of any auditory signalling device including but not limited to ringing of bells, gongs and the blowing of horns, sirens or whistles.	1900 hours (7:00pm) of one day to 0700 hours the next day (12 Noon on Sundays)
8.	Yelling, shouting, hooting or similar noises made by a person.	1900 hours (7:00pm) of one day to 0700 hours the next day (12 Noon on Sundays)

## **Schedule “C”**

### **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. Midways that have been authorized by the Town.
5. Circuses that have been authorized by the Town.
6. Races, parades, processions, and events for ceremonial, religious or traditional purposes that have been authorized by the Town.
7. Operation of bells, chimes, carillons and clocks in places of worship and public buildings.
8. Cultural, recreational, educational and political events in parks and other public places that have been authorized by the Town.
9. Neighbourhood events on municipal highways and other municipal property that have been authorized by the Town.
10. Agricultural activities on agricultural properties.

## Schedule "D"

### Application for a Temporary Noise Permit

1. (1) Any person may submit an application for a temporary noise permit as defined in Section 5 of the Noise Control By-law.
  - (2) The application in writing to the Town of Blind River, and shall contain the following:
    - a) The name, address and telephone number(s) of the applicant;
    - b) A description of the event;
    - c) The location of the event or activity for which the temporary noise permit is sought;
    - d) A description of the source of sound and level of sound for which the temporary noise permit is sought;
    - e) The times of day, and period of time for which the temporary noise permit is sought;
    - f) The reason why the temporary noise permit should be granted;
    - g) A site plan and location of the event, including the location of the band/DJ, the location of the stage, proximity to neighbours, etc.;
    - h) Name(s) and contact information of the supervisors(s) for the event;
    - i) A statement of the steps, if any, planned or presently being taken to minimize the noise or sound;
    - j) Steps taken to notify neighbours within a minimum of 120 meters (required distance may increase as determined by Council);
    - k) A copy of licenses/permits issued by Alcohol & Gaming Commission of Ontario, if applicable;
    - l) Payment of Application fee must be received for permit to be valid.
  - (3) In making a recommendation to Council the Committee, in consultation with enforcement staff and shall:
    - a) Determine whether the event falls within the criteria of Section 2 (c) of the By-law;
    - b) Consider any negative effects the effects the issuance of the temporary noise permit may have on neighbouring properties or on the Municipality;
    - c) Consider any benefits the issuance of the temporary noise permit may have for neighbouring properties of for the municipality;

- d) Consider any previous violation of the Noise By-law or temporary noise permit conditions by the applicant; and
- e) Consider anything the committee reasonably considers relevant.

(4) The committee, in consultation with by-law department may recommend imposing conditions on a temporary noise permit, including but not limited to:

- a) The type and volume of sounds that may be made;
- b) The times during which sounds may be made;
- c) The date of expiry of the temporary noise permit;
- d) Applicant notifying neighbours within a specified range of the property of the event;
- e) Applicant shall comply with officer of the Police Service or a By-law Enforcement Officer with respect to the volume of sound to ensure sounds are at a reasonable level.

2. When Council has made a decision whether or not to grant a Temporary Noise Permit, the CAO/Clerk shall give written notice of that decision to the applicant by regular mail to the last known address of that person.

The written notice shall:

- a) Set out grounds for the decision; and
- b) Be signed by the CAO/Clerk