



CORPORATION OF THE TOWN OF HUNTSVILLE

BY-LAW NUMBER 2018-155

Being a By-law to Control Noise

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 Huntsville 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 HUNTSVILLE ENACTS AS FOLLOWS:

1.0 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 **"Audible Pedestrian Signals"** means a device that communicates information about pedestrian timing in non-visual formats such as audible tones, verbal messages and / or vibrating surfaces;
- 1.4 **"By-Law Enforcement Officer"** means a person who is appointed by Council to enforce bylaws enacted and passed by Council;

- 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 Huntsville;
- 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, phonograph, loudspeakers, amplifiers, microphones or reproducers or any combination of such equipment, including devices used in the reproduction of music, speech or other sounds;
- 1.10 **"General Committee"** means a Committee comprised of Councilors of the Council of The Corporation of the Town of Huntsville;
- 1.11 **"Highway"** as defined in the Highway Traffic Act, R.S.O. 1990, c. H.8;
- 1.12 **"Motor Vehicle"** as defined in the Highway Traffic Act, R.S.O. 1990, c. H.8;
- 1.13 **"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;
- 1.14 **"Noise"** means unwanted sound that is generated within the Town and is likely to disturb an inhabitant of the Town, or a neighbouring municipality;
- 1.15 **"Noise By-law Exemption Application"** means an Application requesting to be exempt from the Noise By-law or portions thereof, as amended;
- 1.16 **"Normal Practice"** means the Noise associated with performing a task that is typical or common practice.
- 1.17 **"Person"** means any human being, association, firm, partnership, incorporated company, corporation, agent or trustee, and the heirs, executors or other legal representatives of a Person to whom the context can apply, according to law;
- 1.18 **"Point of Reception"** means any point on the premises of a person, where noise originating from other than those premises is received;
- 1.19 **"Premises"** means land and includes the buildings and/or structures thereon;
- 1.20 **"Special Event"** as defined in the Special Events By-law;

- 1.21 **"Special Event Permit"** means permission given by the Town to an Applicant to hold a Special Event as defined in the Special Event By-law, as amended;
- 1.22 **"Statutory Holiday"** as defined in the Retail Business Holiday Act R.S.O. 1990, Chapter r.30;
- 1.23 **"Town"** means the Corporation of the Town of Huntsville;
- 1.24 **"Waste"** means any material, substance or byproduct that is discarded and includes recyclables.

2.0 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.

3.0 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".

4.0 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.

5.0 Noise By-law Exemption Application 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.
- 5.3 No Person shall make a false or misleading recital of fact, statement or representation on a Noise By-law Exemption Application.
- 5.4 Upon receipt of an Noise By-law Exemption Application, the Clerk shall schedule the matter for consideration on the next General Committee Meeting agenda and shall notify the Applicant of the scheduling details. The Applicant and any other Person wishing to speak to the matter shall be given the opportunity to delegate the matter before General Committee.
- 5.5 At the General 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;
- 5.6 Where the Applicant has been provided with notification of the General Committee meeting and does not attend, Committee may proceed to deal with the matter in the absence of the Applicant.
- 5.7 General 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.
- 5.8 After hearing all of the evidence and submissions, General Committee shall debate the matter and reach a decision.

- 5.9 The decision made by General Committee shall be confirmed by resolution and is final.
- 5.10 A copy of the resolution shall be mailed to the Applicant or be personally served on them.
- 5.11 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.
- 5.12 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.
- 5.13 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.
- 5.14 Notice of Revocation of a Noise By-law Exemption Permit issued shall be in a written form and may be communicated to the Applicant by a By-law Enforcement Officer 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.
- 5.15 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 Clerk within five (5) calendar days of receipt of the Notice of Revocation.
- 5.16 Upon receipt of a written appeal to Noise By-law Exemption Permit revocation, the Clerk shall schedule the matter for consideration on the next General Committee Meeting agenda and shall notify the Applicant of the scheduling details. The Applicant shall be given the opportunity to delegate the matter before General Committee.
- 5.17 At the General Committee meeting, the onus is on the Applicant to show cause why the Noise By-law Exemption Permit should not be revoked.
- 5.18 Where the Applicant has been provided with notification of the General Committee meeting and does not attend, Committee may proceed to deal with the matter in the absence of the Applicant.
- 5.19 General 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.
- 5.20 After hearing all of the evidence and submissions, General Committee shall debate the matter and reach a decision.

5.21 The decision made by General Committee shall be confirmed by resolution and is final.

5.22 A copy of the resolution shall be mailed to the Applicant or be personally served on them.

6.0 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.

7.0 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.

8.0 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. P.33.

8.1 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.

8.2 Every Person guilty of an offence under this by-law may, if permitted under the Provincial Offences Act, pay a set fine and the Chief Judge of the Ontario Court Provincial division, shall be requested to establish set fines in accordance with Schedule "D" attached to this by-law.

8.3 Each subsequent contravention that results in a conviction will yield a higher fine (doubling each time) to a maximum of \$5,000.00 for a person and \$10,000.00 for every director, officer or employee of a corporation.

9.0 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 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.

10.0 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.

11.0 Schedules

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

12.0 Repeal of By-Laws

12.1 That By-law No. 2015-31 and any amendments thereto are hereby repealed upon receiving approval from the Ministry of the Attorney General for the set fines as identified in Schedule "E" of this by-law.

READ a first time this 12th day of December, 2018.

Mayor (Scott Aitchison)

Clerk (Tanya Calleja)

READ a second and third time and finally passed this 12th day of December, 2018.

Mayor (Scott Aitchison)

Clerk (Tanya Calleja)

THE CORPORATION OF THE TOWN OF HUNTSVILLE
By-law No. 2018-155
SCHEDULE "A"

General Noise Prohibitions

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 warning 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 of Reception;
7. Continuous barking.

THE CORPORATION OF THE TOWN OF HUNTSVILLE
By-law No. 2018-155
SCHEDULE "B"

Noise Prohibitions by Time

No Person shall emit or cause or permit the emission of Noise resulting from any act listed below if clearly audible at a Point of Reception within a prohibited time shown below.

	Column 1	Column 2
Item	Activity	Prohibited Period of Time: (Each and every day)
1.	The operation of any Construction Equipment or in connection with Construction.	21 00 hrs one day to 07 00 hrs the next day Sunday: 07 00hrs to 12 00hrs 18 00hrs one day to 07 00hrs the next day
2.	The operation of any powered or non-powered tool, equipment or Appliance for domestic purposes other than snow removal.	21 00 hrs one day to 07 00 hrs the next day Sunday: 07 00hrs to 12 00hrs 18 00hrs one day to 07 00hrs the next day
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.	19 00 hrs one day to 07 00 hrs the next day and all day Sunday and Statutory Holidays
4.	The operation of material bulk lift, compacting, crushing or shredding equipment.	19 00 hrs one day to 07 00 hrs the next day and all day Sundays and Statutory Holidays
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.	21 00 hrs one day to 07 00 hrs the next day
6.	The operation of an Electronic Device.	23 00 hrs one day to 07 00 hrs the next day
7.	The operation of any auditory signaling device including but not limited to the ringing of bells, gongs and the blowing of horns, sirens or whistles.	21 00 hrs one day to 07 00 hrs the next day
8.	Yelling, shouting, hooting or similar noises made by a person.	21 00 hrs one day to 07 00 hrs the next day

THE CORPORATION OF THE TOWN OF HUNTSVILLE
By-law No. 2018-155
SCHEDULE "C"

General Noise Exemptions

The emission of Noise in connection with the following activities are considered exempt from the provisions of this By-law:

1. Emergency measures undertaken for the immediate health, safety or welfare of the inhabitants for the preservation or restoration of property. Unless such sound is clearly of a longer duration, or nature more disturbing than is reasonably necessary to accomplish such emergency purpose.
2. Sirens or Noise associated with emergency services, essential services, and all other activities conducted by the Town, the District of Muskoka, the Province of Ontario, any utility provider or their agents associated with the provision of maintenance of essential services.
3. Construction or demolition being conducted under a building or demolition permit issued by the Town during permitted hours.
4. The operation of vehicles, equipment and Construction Equipment when utilized for, the clearing of snow from public and private property, street sweeping, bridge washing and line painting.
5. Audible Pedestrian Signals.
6. The performance of any use permitted in an Industrial Zone as set out in any bylaw in force from time to time passed pursuant to S. 34 of the Planning Act, R.S.O.1990, p. 13, or any predecessor or successor of that section, and further that the noise generated is pursuant to work done in the normal manner and that the work does not contravene any federal, provincial or municipal laws or regulations and where the Noise is not generated during prohibited hours.
7. The use of church bells, chimes or carillons normally associated with religious, traditional and festive activities and the ringing bells, blowing or sounding of any horn, yelling, shouting, hooting or hollering at a sanctioned sporting event during permitted hours.
8. Any Noise related to activities permitted in a valid Special Event Permit during the permitted hours of the event. Where notice has been given to residents of the Town of the Special Event of the hours of the event by the organizers of the approved event.
9. Aircraft, airports, trains and railways subject to regulation by the Government of Canada.
10. Motor Vehicles and Motorized Conveyances being operated on a Highway, authorized snow mobile trail or a navigable body of water.

**THE CORPORATION OF THE TOWN OF HUNTSVILLE
PART I PROVINCIAL OFFENCES ACT
BY-LAW NO. 2018-155 – Noise Control By-Law**

SCHEDULE “D”

Item	Short Form Wording	Provision Creating or Defining Offence	Set Fine
1.	Make a false or misleading recital of fact, statement or representation on an application	5.3	\$175.00
2.	Fail to permit an inspection	6.2	\$250.00
3.	Hinder or obstruct an officer from performing their duty	7.1	\$250.00
4.	Emit, cause or permit noise from an electronic device	Schedule A Item 1	\$175.00
5.	Emit, cause or permit noise from any engine or device without an exhaust or intake muffling device	Schedule A Item 2	\$175.00
6.	Emit, cause or permit noise from a motor vehicle in such a way to rev the engine	Schedule A Item 3	\$175.00
7.	Emit, cause or permit noise from a motor vehicle in such a way that the tires squeal	Schedule A Item 4	\$175.00
8.	Emit, cause or permit noise from a horn or other warning device	Schedule A Item 5	\$175.00
9.	Emit, cause or permit noise from residential Domestic activity	Schedule A Item 6	\$175.00
10.	Cause or permit the continuous barking	Schedule A Item 7	\$175.00
11.	Emit, cause or permit noise from construction equipment during prohibited time	Schedule B Item 1	\$175.00
12.	Emit, cause or permit noise from any tool, equipment or appliance during prohibited time	Schedule B Item 2	\$175.00
13.	Emit, cause or permit noise from material handling equipment during prohibited time	Schedule B Item 3	\$175.00
14.	Emit, cause or permit noise from bulk lift, compacting, crushing or shredding equipment during prohibited time	Schedule B Item 4	\$175.00

**THE CORPORATION OF THE TOWN OF HUNTSVILLE
PART I PROVINCIAL OFFENCES ACT
BY-LAW NO. 2018-155 – Noise Control By-Law**

SCHEDULE "D"

Item	Short Form Wording	Provision Creating or Defining Offence	Set Fine
15.	Emit, cause or permit noise from a toy, model or replica during prohibited time	Schedule B Item 5	\$175.00
16.	Emit, cause or permit noise from an electronic device during prohibited time	Schedule B Item 6	\$175.00
17.	Emit, cause or permit noise from auditory signaling device during prohibited time	Schedule B Item 7	\$175.00
18.	Emit, cause or permit yelling, shouting, hooting or similar noises during prohibited time	Schedule B Item 8	\$175.00

NOTE: The general penalty provision for the offences listed above is Section 8.0 of
By-law 2018-155, a certified copy of which has been filed.