

## THE CORPORATION OF THE TOWN OF MILTON

### BY-LAW NO. 133-2012

BEING A BY-LAW TO PROHIBIT AND REGULATE NOISE WITHIN THE TOWN OF MILTON AND TO REPEAL BY LAW 16-84 AND ALL OF ITS AMENDING BY-LAWS IN THEIR ENTIRETY

**WHEREAS** sections 8, 9 and 11 of the *Municipal Act, 2001* authorize the Town of Milton to pass by-laws necessary or desirable for municipal purposes, and in particular paragraphs 5, 6 and 8 of subsection 11(2) and in particular paragraph 9 of subsection 11(3) authorize by-laws respecting the economic, social and environmental well-being of the municipality; the health, safety and well-being of persons; the protection of persons and property; and animals;

**AND WHEREAS** section 128 of the *Municipal Act, 2001* authorizes the Town of Milton to prohibit and regulate with respect to public nuisances, including matters that, in the opinion of the Council of the Town of Milton are or could become public nuisances;

**AND WHEREAS** in the opinion of the Council of the Town of Milton certain kinds of noise are or could become a public nuisance;

**AND WHEREAS** section 129 of the *Municipal Act, 2001* authorizes the Town of Milton to prohibit and regulate with respect to noise and, in particular, to prohibit noise unless a permit is obtained from the Town of Milton and to impose conditions for obtaining, continuing to hold and renewing the permit, including requiring the submission of plans;

**AND WHEREAS** section 425 of the *Municipal Act, 2001* authorizes the Town of Milton to pass by-laws providing that a person who contravenes a by-law of Town of Milton passed under that Act is guilty of an offence;

**AND WHEREAS** the *Municipal Act, 2001* further authorizes the Town of Milton, amongst other things, to delegate its authority,, to impose fees or charges on persons for services or activities provided or done by or on behalf of it, to provide for inspections and inspection orders, and to make orders to discontinue activity or to do work;

**AND WHEREAS** Section 23.1 of the *Municipal Act, S.O. 2001, c. 25*, as amended, authorizes a municipality to delegate its powers and duties to a person;

**AND WHEREAS** the Council of the Corporation of the Town of Milton deems it appropriate and expedient to delegate authority to the Supervisor, Licencing and Enforcement to exempt upon application and paying a fee, any person, including special event, from the by-law;

**AND WHEREAS** section 444 of the *Municipal Act, 2001* provides that the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity, and any person who contravenes such an order is guilty of an offence;

**NOW THEREFORE**, THE COUNCIL OF THE CORPORATION OF THE TOWN OF MILTON HEREBY ENACTS AS FOLLOWS:

## **1 SHORT TITLE**

- 1.1. This by-law may be cited as the “Noise By-law”.

## **2 DEFINITIONS**

In this by-law, all words shall carry their customary meaning except as hereinafter stated.

- 2.1. “Authorized Emergency Vehicle” includes any ambulance or hearse, any vehicle of the fire department, any vehicle of the local, provincial or federal police, any vehicle (including a snow plough) operated by or for the Town or a public utility company while actively engaged in the construction, maintenance or repair of any highway, or any equipment or facilities thereon, or a snow plough or other maintenance vehicle operated by or for the Ministry of Transportation or the Regional Municipality of Halton;
- 2.2. “Construction” includes 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 installation of construction components and materials in any form or for any purpose, and includes any work in connection therewith; “construction” excludes activities associated with the operation at waste and snow disposal sites
- 2.3. “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;
- 2.4. “Conveyance” means the operation of any Motor Vehicle, Off road vehicle and any other vehicle used to transport a person or goods from place to place and includes any operation on the same property.

- 2.5. “Council” means the Council of The Corporation of the Town of Milton
- 2.6. “Dwelling Unit” means a room or rooms in which a kitchen, living quarters and sanitary conveniences are provided for the exclusive use of the residents and with a private entrance from outside the building or from a common hallway or stairway inside.
- 2.7. “Goods Distribution Facility” Means a premises used for the storage and/or distribution of goods, wares, merchandise, substances, articles or things, within a building and may include a commercial storage facility or facilities for an accessory wholesale or retail outlet, but does not include a transportation terminal. (amended by bylaw 083-2021)
- 2.8. “Hotel” Means a premises in which lodging or sleeping accommodation are provided to the general public and may include accessory services such as restaurants, meeting facilities, recreation facilities, convention and banquet facilities. (amended by bylaw 083-2021)
- 2.9. “Motel” Means a premises that contains rooms with no private cooking facilities that are rented on a temporary basis to the public traveling predominantly by motor vehicle, with some of the rooms being accessed from the outside. (amended by bylaw 083-2021)
- 2.10. “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 public for the passage of vehicles and includes the area between the lateral property lines thereof;
- 2.11. “Motor Vehicle” means any vehicle and 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 other motor vehicle running only upon rails, or a motorized snow vehicle, farm tractor, self-propelled implement of husbandry or road building machine;
- 2.12. “Noise” means any unwanted sound;
- 2.13. “Off road vehicle” means a vehicle propelled or driven otherwise than by muscular power or wind and designed to travel:
- (a) on not more than three wheels, or
  - (b) on more than three wheels and being of a class of vehicle prescribed by the regulations under the Off-Road Vehicles Act, R.S.O. 1990, c. O.4, as amended from time to time;
  - (c) and includes, but is not limited to, trail bikes, dirt bikes, dune buggies, all terrain vehicles, motorized snow vehicles and *motor vehicles* used during a demolition derby or intended to be used for a demolition derby.

- 2.14. “Person” or any expression referring to a person, means an individual, sole proprietorship, partnership, limited partnership, trust, corporate body, organization, charity and/or an individual in his or her capacity as a trustee, executor, administrator or other legal representative.
- 2.15. “Point of Reception” means any point on a Premises where sound or vibration originating from other than that Premises is received;
- 2.16. “Premises” includes the area of a building and/or parcel of property or in a multiple unit building occupied by more than one (1) business, each business area shall be considered a separate premises and each dwelling unit shall also be considered a separate premises.
- 2.17. “Publication - N.P.C.” means a specified publication of the Ministry of the Environment as follows, and attached hereto as Schedule “A”, which Schedule forms part of this By-law:

<b>Publication - N.P.C. 101</b>	- Technical Definitions
<b>Publication - N.P.C. 102</b>	- Instrumentation
<b>Publication - N.P.C. 103</b>	- Procedures
<b>Publication - N.P.C. 104</b>	- Sound Level Adjustments
<b>Publication - N.P.C. 205</b>	- Sound Level Limits for Stationary Sources in Class 1 and 2 Areas (Urban)
<b>Publication - N.P.C. 216</b>	- Residential Air Conditioning Devices
<b>Publication - N.P.C. 206</b>	- Sound Levels of Road Traffic
<b>Publication - N.P.C. 232</b>	- Sound Level Limits for Stationary Sources in Class 3 Areas (Rural)

- 2.18. “Retail business establishment” Means a premises in which goods, wares, merchandise, substances, articles, things or services are offered or kept for sale at retail or on a rental basis. (as amended by bylaw 083-2021)
- 2.19. “Restaurant” Means a premises in which the principal business is the preparation and serving of food and refreshments to the public for immediate consumption within the establishment or on an abutting terrace or patio, and which may include home delivery, catering or food pick-up/ take-out services (as amended by bylaw 083-2021)
- 2.20. “Quiet Area” means Premises at the following location:

Milton District Hospital

- 2.21. “Residential Area” means the following zones within the Town of Milton Zoning By-law Residential Low Density (RLD), Residential Medium Density 1 (RMD1), Residential Medium Density 2 (RMD2), Residential High Density (RHD), Residential Office Estate (RO), Rural Estate (RE), Village Rural (RV) and any residential use permitted within a commercial zone or any other zone permitting a residential use.

- 2.22. “Source of Sound” means an activity, matter, thing, or tangible personal property or real property, from which sound or vibration is emitted;
- 2.23. “Supervisor” means the Supervisor, Licensing & Enforcement
- 2.24. “Town” means the Town of Milton.

### 3 GENERAL PROHIBITIONS

- 3.1. If not otherwise provided for in this by-law, no *person* shall emit or cause or permit the emission of sound likely to disturb another between 9:00 p.m. and 7:00 a.m. of the following day.
- 3.2. No *person* shall emit or cause or permit the emission of sound resulting from the following which sound is clearly audible at a *Point of Reception*:
- (a) 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.
  - (b) Racing of any *Motor Vehicle* other than in a racing event regulated by law.
  - (c) The operation of a *Motor Vehicle* in such a way that the tires squeal.
  - (d) The operation of any combustion engine without an effective exhaust-muffling device in good working order;.
  - (e) The operation of a *Motor Vehicle* or a *Motor Vehicle* with a trailer resulting in banging, clanking, squealing or other like *noise* due to improperly secured load or equipment, or inadequate maintenance.
  - (f) 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 *Motor Vehicle* is stationary and the *Point of Reception* is in a *Residential Area* or a *Quiet Area*, unless,
    - (i) The *Motor Vehicle* is in an enclosed structure constructed so as to effectively prevent excessive sound emission; or,
    - (ii) 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,
    - (iii) Operation of such engine or motor is essential to a basic function of the *Motor Vehicle* or equipment, including but not limited to, operation of ready-mixed concrete trucks, lift platforms or refuse compactors and heat exchange systems; or,
    - (iv) Weather conditions justify the use of heating or refrigerating 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,
- (v) Prevailing low temperatures make longer idling periods necessary, immediately after starting the motor or engine; or,
- (vi) 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.
- (g) The operation of a *Motor Vehicle* horn or other warning device except where required or authorized by law or in accordance with good safety practices.
- (h) The operation of any item of *Construction Equipment* in a *Quiet Area* without effective muffling devices which is in good working order.
- (i) The persistent barking, calling, whining or other similar persistent sound made by any domestic pet or any other animal kept or used for any purpose other than agriculture which sound(s) is clearly audible at a *Point of Reception*.

#### 4 PROHIBITIONS BY TIME AND PLACE

- 4.1. No *person* shall emit or cause or permit the emission of sound resulting from the following which sound is clearly audible at a *Point of Reception* between 9:00 p.m. - 7:00 a.m.
- (a) 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) The operation of a combustion engine which is used or is intended for use in a toy or a model or replica of a larger device, which model or replica has no function other than amusement and which is not a Conveyance.
  - (c) The operation of any *Motor Vehicle* other than on a Highway or other place intended for its operation.
  - (d) All selling or advertising by shouting out, cry or amplified sound.
  - (e) The venting, release or pressure relief of air, steam, or other gaseous material, product or compound from any autoclave, boiler, pressure vessel, pipe, valve, machine, device or system.
  - (f) The operation of a power assisted hang glider or a parafoil.
  - (g) The operation of a commercial car wash with air drying equipment.
  - (h) The operation of *Construction Equipment*.
  - (i) The operation of any powered or non-powered tool for purposes other than snow removal.

- 4.2. No *person* shall emit or cause or permit the emission of Noise resulting from the detonation of fireworks or explosive devices which sound is clearly audible at a *Point of Reception* between 11:00 p.m. - 7:00 a.m.
- 4.3. No *person* shall emit or cause or permit the emission of sound resulting from the loading, unloading, delivering, packing, unpacking, or otherwise handling any containers, produce, materials, or refuse whatsoever which sound is clearly audible at a *Point of Reception* between 11:00 p.m. - 7:00 a.m. unless defined as a retail business establishment; a restaurant, including cafes and bars; a hotel or motels; or a goods distribution facility. (amended by bylaw 083-2021)
- 4.4. No *person* shall emit or cause or permit the emission of sound resulting from the operation of a sound emitting pest control device between dusk and dawn.
- 4.5. No *person* shall emit or cause or permit emission of sound resulting from the operation of any off road vehicle other than on a Highway which sound is clearly audible at a *Point of Reception* between 9:00 p.m. - 7:00 a.m.
- 4.6. No *person* shall emit or cause or permit emission of sound resulting from yelling, shouting, hooting, whistling or singing which sound is clearly audible at a *Point of Reception* between 11:00 p.m. - 7:00 a.m.
- 4.7. No *person* shall emit or cause or permit emission of sound resulting from the banging of drums or production of sound by any other unamplified musical instrument which sound is clearly audible at a *Point of Reception* between 9:00 p.m. - 7:00 a.m.

## 5 MEASURED NOISE PROHIBITIONS

- 5.1. This section does not apply to the emission of sound prohibited during the specific times prescribed for in section 4 of this by-law.
- 5.2. No *person* shall emit or cause or permit the emission of sound resulting from a Stationary Source such that the level of resultant sound at a *Point of Reception* exceeds the applicable sound level limit prescribed in:
  - (a) *Publication - N.P.C. 205 - Sound Level Limits for Stationary Sources in Class 1 and 2 Areas (Urban)* attached hereto as Schedule “A”, which Schedule forms part of this By-law.
  - (b) *Publication - N.P.C. 216 - Residential Air Conditioning Devices* attached hereto as Schedule “A”, which Schedule forms part of this By-law.
  - (c) *Publication - N.P.C. 232 - Sound Level Limits for Stationary Sources in Class 3 Areas (Rural)*, attached hereto as Schedule “A”, which Schedule forms part of this By-law.

## 6 EXEMPTIONS

- 6.1. Notwithstanding any other provision of this by-law, this by-law shall not apply to a *person* who emits or causes or permits the emission of sound in connection with any of the following activities:
- (a) Operation of Authorized Emergency Vehicles;
  - (b) Undertaking emergency measures for the immediate health, safety or welfare of any *person* or the preservation or restoration of property;
  - (c) Undertaking repairs so ordered by an emergency Property Standards order pursuant to the Milton Property Maintenance and Occupancy Standards By-law 141-2001;
  - (d) Operation of machines or equipment by or on behalf of the *Town* for emergency purposes;
  - (e) Operation of bells, tones or whistles utilized as traffic control devices including those at traffic signal locations and railway crossings;
  - (f) Operation of snow removal equipment while in the operation of snow removal;
  - (g) A normal farm practice carried on as part of an agricultural operation under the Farming and Food Productions Protection Act, 1998, S.O. 1998, c-I or any successor legislation thereto.
  - (h) Operation of bells, chimes, carillons and clocks in religious or public buildings.
- 6.2. Notwithstanding any other provision of this by-law, the *Supervisor*, Licensing & Enforcement, may, upon application by any *person* for an exemption from a provision or provisions under this by-law and the payment of the applicable application fee,
- (a) exempt the applicant from any provision or provisions of this by-law on such terms and conditions as he/she may determine; or
  - (b) refuse to grant any exemption from any provision of this by-law.
- 6.3. The *Supervisor*, Licensing & Enforcement, may cancel, revoke or suspend any exemption granted in section 6.2 on the grounds that:
- (a) it is in the public interest to do so, including, but not limited to, for public health and safety reasons;
  - (b) the applicant has misrepresented or omitted a material fact in his or her application for the exemption being applied for; and/or.
  - (c) the applicant has not complied with the terms and conditions as provided for in the exemption.
- 6.4. Where a *person* has been granted an exemption by the *Supervisor*, Licensing & Enforcement, under Section 6.2 and the exemption is subject to any conditions, the exemption shall immediately be revoked,



without further process, in the event that there is any contravention of any of the conditions of the exemption

- 6.5. In considering an application for an exemption in this by-law, the *Supervisor*, Licensing & Enforcement, shall have regard to:
- (a) Any negative effects the issuance of the exemption permit may have on neighbouring properties or on the *Town*;
  - (b) Any benefits the issuance of the exemption permit may have on neighbouring properties or on the *Town*;
  - (c) Any previous violations of this By-law or an exemption permit by the applicant; and
  - (d) Anything the *Supervisor*, Licensing & Enforcement, considers relevant, acting reasonably.
- 6.6. The conditions that the *Supervisor*, Licensing & Enforcement, or designate may impose on an exemption under section 6.2 of this by-law may include but are not limited to:
- (a) The type and volume of the sound;
  - (b) The days during which the exemption is in effect
  - (c) The times during which the exemption is in effect;
  - (d) That the surrounding neighbourhood be notified by the *person* making the application, to the satisfaction of the *Supervisor*, Licensing & Enforcement.
  - (e) That the Halton Region Police Service be notified by the *person* making the application, of the event and exemption.
  - (f) That a qualified individual or qualified individuals, as determined by the *Supervisor*, Licensing & Enforcement, monitor the sound and file a report with the *Supervisor*, Licensing & Enforcement, at the applicant's expense.
  - (g) That any sound created by a special event, as recognized by the Special Events Review Team, shall not begin before 11:00 a.m. and shall end at 11:00 p.m. on all days of the week, except Sunday, when the sound shall not begin before 12:00 noon and shall end at 10:00 p.m.; and
  - (h) That any sound created by a special event, as recognized by the Special Events Review Team, shall not exceed 90 dba to be determined 10 metres from the *Source of Sound*.
  - (i) That a Municipal Law Enforcement Officer monitor a special event, as recognized by the Special Events Review Team, at the expense of the Special Event organization or organizer, if deemed appropriate by the *Supervisor*, Licensing & Enforcement,

## **7 ENFORCEMENT AND ADMINISTRATION**

- 7.1. This by-law may be enforced by a Municipal Law Enforcement Officer or a police officer.

- 7.2. If a Municipal Law Enforcement Officer or a police officer is satisfied that this by-law has been contravened, the officer may make an order, known as an “Order to Discontinue Activity”, requiring the *person* who contravened the by-law, or who caused or permitted the contravention, or the owner or occupier of the land on which the contravention occurred, to discontinue the contravention.
- 7.3. An “Order to Discontinue Activity” shall set out:
- (a) The municipal address of the property on which the contravention occurred;
  - (b) The date of the contravention;
  - (c) The reasonable particulars of the contravention of the by-law; and
  - (d) The date and time by which there must be compliance with the Order.
- 7.4. The “Order to Discontinue Activity” may be served personally on the *person* to whom it is directed or by regular mail to the last known address of that *person*, in which case it shall be deemed to have been served on the third day after it is mailed. Service on a corporation can be affected by registered mail to the corporate mailing address and will be deemed to have been served on the third day after it is mailed by registered mail.
- 7.5. No *person* shall contravene an “Order to Discontinue Activity”.
- 7.6. Every *person* other than a corporation who fails to comply with any provision of this bylaw or an Order or other direction made under this by-law is guilty of an offence and, upon conviction, is liable to a fine of:
- (a) Not more than \$10,000 for a first offence and
  - (b) Not more than \$25,000 for a second or subsequent offence.
- 7.7. Every corporation that fails to comply with any provision of this by-law or an Order or other direction made under this By-law is guilty of an offence and, upon conviction, is liable to a fine of:
- (a) Not more than \$50,000 for a first offence and
  - (b) Not more than \$100,000 for a second or subsequent offence.
- 7.8. If this by-law is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an Order prohibiting the continuation or repetition of the offence by the *person* convicted.
- 7.9. No *person* shall hinder or obstruct, or attempt to hinder or obstruct, any *person* who is exercising a power or performing a duty under this By-law, including carrying out an inspection.

## **8 INSPECTION FEE**

- 8.1. In addition to any fines that may be imposed as a result of a conviction where the Municipal Law Enforcement Officer determines that an activity producing noise or sound is not in compliance with this by-law or with an Order to Discontinue Activity, a noise inspection fee or charge set out in the applicable User Fee By-law for inspection may be imposed on the owner, *person* responsible for the noise or sound, or temporary noise permit holder.
- 8.2. The fees imposed constitute a debt of the person to the Town. The Town Treasurer may add such debt or fees to the tax roll and collect them in the same manner as municipal taxes on any property for which all the owners are responsible for paying the fees.

## **9 SEVERABILITY**

- 9.1. Should any section, clause or provision of this by-law be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the by-law as a whole or any part thereof, other than the part which was declared to be invalid.

## **10 REPEAL**

- 10.1. By-law 16-84 and all of its amending by-laws are hereby repealed in its entirety.

## **11 ENACTMENT**

This By-law shall come into full force and effect on the date it is passed.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED** this 29th day of October, 2012.

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Gordon A. Krantz Mayor

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Troy McHarg Town Clerk